14 MILES FROM POINT

The island is situated 14 miles up the Allegheny River from "The Point," hence its name. Harmar Twp. lies to the north of the island and Plum Borough is to the immediate south.

Thomas Vogel, TRIAD staffer, said his organization is now lining up funds, materials and aid to carry out the proposed improvements.

Army Reserve units in the Pittsburgh area have agreed to help with construction chores.

"For relatively modest sums of money, we can install fire circles so day campers and overnight guests can heat up victuals the old-fashioned way," he said.

That means opening cans of baked beans and heating them hobo style over red-hot coals.

There'll be nature trails through the thick stands of willow that envelop the island.

Marine cables already have been placed in the riverbed to supply electricity. But the lines have not yet been energized. So there still is no way to run the motors on the pumps in wells used for the island's drinking water supplies.

"We need electricity for refrigerators and for equipment in the dining hall and to illuminate all our proposed facilities," said Vogel.

PROGRAM ON 4 YEARS

TRIAD has conducted a summertime recreation program the past four years on the island for underprivileged children.

But the major focus has been on day camp activities. Overnight stays have been available only for youngsters who have a pup tent or camping gear.

Youngsters who visit the island while away their time fishing and wading along the shore of the river. A TRIAD-owned boat serves as a ferry and sightseeing vessel.

Biggest feature of all, however, is escape from the city's noisy, teeming streets.

"Many of the youngsters have never been on the river before or slept out overnight," said Vogel.

The emphasis of the TRIAD program is on simple pleasures.

Like sitting under a willow tree and watching the blue-green river slide by.

LATVIAN INDEPENDENCE

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. PEYSER. Mr. Speaker, I would like to call your attention to the fact that November 18 marks the 55th anniversary of the Latvian declaration of independence. It is time for us to give pause and remember that there are still millions of people throughout the world who do not enjoy the fruits of freedom and self-government.

When the Latvian people finally became independent in 1918 it was the result of centuries of struggle. There followed a period of economic and cultural growth unparalleled in their history. Their record of growth still has not been equalled today. Instead, due to the Russian invasion and occupation in 1940, "suppression of human rights and fundamental freedoms and terrorism are the marks of the Soviet occupation in Latvia." The Latvian people, 23 years after the occupation of their country, are still paying the price of colonization and domination by a foreign government.

This is a sad reminder to us all in the United States that we must continue to insist on the right to self-government for all. Latvia and its citizens are proud of their heritage and culture; they look to the day when they will be able to celebrate them.

FEDERAL EMPLOYEE UNJUSTLY ACCUSED

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. BROYHILL of Virginia. Mr. Speaker, recently a career Federal employee was unjustly accused in a Washington Post news item of using an alleged relationship with a Member of Congress to obtain a promotion. The newspaper falsely states the relationship as a fact in spite of advance information to the contrary and infers that the employee would not have been promoted on a merit basis.

I insert a letter I wrote to the editor of the Post in an effort to set the record straight. Inasmuch as the news item has been reprinted in the CONGRESSIONAL RECORD, I hope my insertion will set that record straight:

OCTOBER 31, 1973.

Mr. BENJAMIN BRADLEE,
Editor, The Washington Post,
Washington, D.C.

DEAR MR. BRADLEE: Recently, in a story entitled "Political Abuses Cited in CSA Hiring" you printed false information about my connection with one individual after your reporter was twice informed of the error in fact.

The story refers to one person receiving a promotion at GSA as a "former sister-in-law" of mine and infers that she was given favoritism treatment because I had improperly used by influence in behalf of a relative.

Your reporter first discussed this story with two members of my staff on the evening before the story was printed. Both of these staff members told the reporter that they did not believe there was a former sister-in-law by that name. One of my aides specifically urged your reporter to call the person involved to inquire about this relationship question and also recommended that the reporter call me with the same question.

Your reporter did call me at my home that evening and I told him that I did not know of any relative by that name.

In spite of these two conversations the false information and the unfair insinuation were not changed in the story. Please advise me if it is your policy to print information known to be false just for the purpose of dramatizing your news articles. I realize that a newspaper increases circulation and thus increases income when news stories are of greater interest. I certainly hope, however, the profit making motive does not put lies in your news items.

Inasmuch as your reporter called after office hours it was not possible to give him a specific answer regarding whether or not I had sought to help the alleged "former sister-in-law." I have now had the opportunity to check my files and find that I did not take any action in her behalf in this or any other matter.

The Post has done harm to the reputation of this career Federal employee and has failed to meet the obligation of accuracy that goes hand-in-hand as an obligation to match the freedom of the press. I suggest you print this letter with your apology to the GSA employee.

I do want you to know that had the person in question called, written or visited to ask me or any member of my staff for assistance she would have received help in full measure. I believe every citizen has a right to expect assistance from his representative in transactions with their government. I am proud of my service in this aspect of my Congressional duties and I intend to continue helping my constituents to the best of my ability.

With best wishes, I am

Sincerely,

JOEL T. BROYHILL,
Member of Congress.

SENATE—*Monday, November 19, 1973*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

Our Father God, we lift our morning prayer to Thee for strength and wisdom beyond our own. We thank Thee for every human endowment of intellect, reason, and emotion, and we pray that to these gifts Thou wouldst add the gift of Thy presence and power. Amid the darkness of these disturbing days make us grateful for the shining light of Thy presence, for the reality of things that cannot be shaken, for beauty and truth, for goodness and love, for all in this earthly life which speaks of the eternal. Make us to know that though we work as citizens of this land, we are also citizens of a higher order, the maker of which is God, the law of which is love, the judgments of which are pure and righteous. And to Thee shall be all the praise and glory forever. Amen.

COMMITTEE REPORT SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of November 15, 1973, Mr. MAGNUSON, from the Committee on Commerce, on Friday, November 16, 1973, submitted a report on the bill (S. 2176) to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes (Rept. No. 93–526), which was ordered to be printed.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, November 16, 1973, be dispensed with.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 480, 494, and 496 as a starter.

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

JOINT FUNDING SIMPLIFICATION ACT OF 1973

The Senate proceeded to consider the bill (S. 2299) to provide authority to expedite procedures for consideration and approval of projects drawing upon more than one Federal assistance program, to simplify, requirements for operation of those projects, and for other purposes, which had been reported from the Committee on Government Operations with amendments on page 5, in line 2, after the word "sections" insert "6"; and on page 8, in line 12, strike out "advanced" and insert in lieu thereof "transferred" so as to make the bill read:

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 "Joint Funding Simplification Act of 1973".

PURPOSE

SEC. 2. The purpose of this Act is to enable States, local governments, and other public or private organizations and agencies to use Federal assistance more effectively and efficiently, to adapt that assistance more readily to their particular needs through the wider use of projects drawing upon resources available from more than one Federal agency, program, or appropriation. It is the further purpose of this Act to encourage Federal-State arrangements under which local governments and other public or private organizations and agencies may more effectively and efficiently combine State and Federal resources in support of projects of common interest to the governments, agencies, and organizations concerned.

BASIC RESPONSIBILITIES OF THE HEADS OF FEDERAL AGENCIES

SEC. 3. (a) Subject to such regulations as the President may prescribe, the heads of Federal agencies may take actions, by internal agency order or interagency agreement, including but not limited to:

(1) identification of related programs likely to be particularly suitable or appropriate for providing joint support for specific kinds of projects;

(2) development and promulgation of guidelines, model or illustrative projects, joint or common application forms, and other material or guidance to assist in the planning and development of projects drawing support from different programs;

(3) review of administratively established program requirements in order to determine which of those requirements may impede joint support of projects and the extent to which these may be appropriately modified, and making modifications accordingly;

(4) establishment of common technical or administrative rules among related programs to assist in the joint use of funds in the support of specific projects or classes of projects; and

(5) creation of joint or common application processing and project supervision procedures or mechanisms including procedures for designating lead agencies to assume responsibilities for processing on behalf of several agencies and for designation of managing agencies to assume responsibilities for project supervision on behalf of several agencies.

(b) The head of each Federal agency shall be responsible for taking actions, to the maximum extent feasible under applicable law, which will further the purpose of this Act with respect to Federal assistance programs administered by his agency. Each Federal agency head shall also consult and cooperate with the heads of other Federal agencies in order similarly to promote the purposes of this Act with respect to Federal assistance programs of different agencies which may be used together or jointly in support of projects undertaken by State or local governments or other public or private agencies and organizations.

APPLICATION PROCESSING

SEC. 4. Actions taken by Federal agencies pursuant to this Act which relate to the processing of applications or requests for assistance under two or more Federal programs in support of any project shall be designed to assure, so far as reasonably possible, that (1) all required reviews and approvals are handled expeditiously; (2) full account is taken of any special considerations of timing that are made known by the applicant that would affect the feasibility of a jointly funded project; (3) the applicant is required to deal with a minimum number of Federal representatives, acting separately or as a common board or panel; (4) the applicant is promptly informed of decisions with respect to his application and of any special problems or impediments which may affect the feasibility of Federal provision of assistance on a joint basis; and (5) the applicant is not required by representatives of any one Federal agency or program to obtain information or assurances concerning the requirements or actions of another Federal agency which could better and more appropriately be secured through direct communication among the Federal agencies involved.

SPECIAL AUTHORITIES—BASIC CONDITIONS

SEC. 5. Where appropriate to further the purposes of this Act, and subject to the conditions prescribed in this section, heads of Federal agencies may use the authorities described in sections 6, 7, and 8 (relating to the establishment of uniform technical or administrative requirements, delegation of powers and responsibilities, and establishment of joint management funds) with respect to projects assisted under more than one Federal assistance program. These authorities shall be exercised only pursuant to regulations prescribed by the President. Those regulations shall include criteria or procedures to assure that the authorities are limited in use to problems that cannot be adequately dealt with through other actions pursuant to this Act or other applicable law, that they are applied only as necessary to promote expeditious processing or effective and efficient administration, and that they are applied consistent with the protection of the Federal interest and with program purposes or statutory requirements of a substantive nature.

ESTABLISHMENT OF UNIFORM TECHNICAL OR ADMINISTRATIVE REQUIREMENTS

SEC. 6. (a) In order to provide for projects which would otherwise be subject to varying or conflicting technical or administrative provisions of law, the heads of Federal agencies may adopt uniform provisions respecting:

(1) inconsistent or conflicting requirements relating to financial administration, including accounting, reporting and auditing, and maintaining separate bank accounts, but only to the extent consistent with the requirements of section 8;

(2) inconsistent or conflicting requirements relating to the timing of Federal payments where a single or combined schedule is to be established for the project as a whole;

(3) inconsistent or conflicting requirements that assistance be extended in the form of a grant rather than a contract, or a contract rather than a grant;

(4) inconsistent or conflicting requirements relating to accountability for, or the disposition of, property or structures acquired or constructed with Federal assistance where common rules are to be established for the project as a whole; and

(5) other inconsistent or conflicting requirements of an administrative or technical nature, as defined in regulations of the President and subject to such conditions as he may prescribe.

(b) In order to permit processing of applications in accordance with the purposes of this Act, Federal agency heads may provide for review of proposals for projects by a single panel, board, or committee in lieu of review by separate panels, boards, or committees when such review would otherwise be required by law.

(c) In promoting the more effective and efficient use of Federal assistance resources, Federal agency heads may waive requirements that a single or specific public agency be utilized or designated to receive, supervise, or otherwise administer a part of the Federal assistance drawn upon by any jointly funded project to the extent that administration by another public agency is determined to be fully consistent with applicable State or local law and with the objectives of the Federal assistance program involved. This authority may be exercised only (1) upon request of the head of a unit of general government, with respect to agencies which he certifies to be under his jurisdiction, or (2) with the agreement of the several State or local public agencies concerned.

DELEGATION OF POWERS

SEC. 7. With the approval of the President, agency heads may delegate to other Federal agencies any powers relating to the approval, under this Act, of projects or classes of projects under a program if such delegation will promote the purposes of that program. Agency heads may also delegate to other Federal agencies powers and functions relating to the supervision or administration of Federal assistance, or otherwise arrange for other agencies to perform such activities, with respect to projects or classes of projects subject to this Act. Delegations under this section shall be made only on such conditions as may be appropriate to assure that the powers and functions delegated are exercised in full conformity with applicable statutory provisions and policies.

FUNDING ARRANGEMENTS AND PROCEDURES

SEC. 8. (a) In order to provide for the more effective administration of funds drawn from more than one Federal program or appropriation in support of projects under this Act, there may be established joint management funds with respect to such projects. The total amount approved for such a project may be accounted for through a joint management fund as if the funds had been derived from a single Federal assistance program or appropriation. There will be transferred to the joint management fund from each affected appropriation, from time to time, its proportionate share of amounts needed for payment to the grantee. Any amounts re-

maining in the hands of the grantee at the completion of the project shall be returned to the joint management fund.

(b) Any account in a joint management fund shall be subject to such agreements, not inconsistent with this section and other applicable law, as may be entered into by the Federal agencies concerned with respect to the discharge of the responsibilities of those agencies and shall assure the availability of necessary information to those agencies and to the Congress. These agreements shall also provide that the agency administering a joint management fund shall be responsible and accountable for the total amount provided for the purposes of each account established in the fund; and may include procedures for determining, from time to time, whether amounts in the account are in excess of the amounts required, for returning that excess to the participating Federal agencies in accordance with a formula mutually acceptable as providing an equitable distribution, and for effecting returns accordingly to the applicable appropriations, subject to fiscal year limitations. Excess amounts applicable to expired appropriations will be lapsed from that fund.

(c) For each project financed through a joint management fund established pursuant to this section, the recipients of moneys drawn from the fund shall keep such records as the head of the Federal agency responsible for administering the fund will prescribe. Such records shall, as a minimum, fully disclose the amount and disposition by such recipient of Federal assistance received, the total cost of the project in connection with which such Federal assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(d) The head of the Federal agency responsible for administering such joint management fund 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 such recipients that are pertinent to the moneys received from such fund.

(c) In the case of any project covered in a joint management fund, a single non-Federal share may be established according to the Federal share ratios applicable to the several Federal assistance programs involved and the proportion of funds transferred to the project account from each of those programs.

AUXILIARY PROVISIONS

SEC. 9. (a) Appropriations available to any Federal assistance program for technical assistance or the training of personnel may be made available for the provision of technical assistance and training in connection with projects proposed or approved for joint or common funding involving that program and any other Federal assistance program.

(b) Personnel of any Federal agency may be detailed from time to time to other agencies as necessary or appropriate to facilitate the processing of applications under this Act or the administration of approved projects.

FEDERAL-STATE ASSISTANCE AND AGREEMENTS

SEC. 10. Subject to such regulations as the President may prescribe, Federal agencies may enter into agreements with States or State agencies as appropriate to extend the benefits of this Act to projects involving assistance from one or more Federal agencies and one or more State agencies. These agreements may include arrangements for the processing of requests for, or the administration of, assistance to such projects on a joint basis.

AUTHORITY OF THE PRESIDENT

SEC. 11. In addition to powers and authority otherwise conferred upon him by this Act or other law, the President may take such action, prescribe such procedures, and promulgate such rules as may be necessary or appropriate to assure that this Act is applied by all Federal agencies in a consistent manner and in accordance with its purposes. He may, for this purpose, require that Federal agencies adopt or prescribe procedures that will assure that applicants for assistance to projects under this Act make appropriate efforts (1) to secure the views and recommendations of non-Federal agencies that may be significantly affected by such projects, including units of general government, and (2) to resolve questions of common interest to those agencies prior to submission of any application. The President shall also, from time to time, make reports to the Congress on actions taken under this Act and make such recommendations for additional legislative action as he may deem appropriate, including recommendations for the consolidation, simplification, and coordination of Federal assistance programs.

DEFINITIONS

SEC. 12. As used in this Act—

(1) "Federal assistance programs" are programs that provide assistance through grant or contractual arrangements, and include technical assistance programs or programs providing assistance in the form of loans, loan guarantees or insurance;

(2) "applicant" includes one or more State or local governments or other public or private agencies or organizations acting separately or together in seeking assistance with respect to a single project;

(3) "project" includes any undertaking, however characterized and whether of a temporary or continuing nature, which includes components proposed or approved for assistance under more than one Federal program, or one or more Federal and one or more State programs, if each of those components contributes materially to the accomplishment of a single purpose or closely related purposes;

(4) "Federal agency" includes any agency in the executive branch of the Government; and

(5) "State" means one of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

EFFECTIVE DATE AND EXPIRATION

SEC. 13. This Act shall become effective sixty days following the date of enactment.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL FUELS AND ENERGY CONSERVATION ACT OF 1973

The bill (S. 2176), to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes, was announced as next in order.

The PRESIDIENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs with an amendment in the nature of a substitute and from the Committee on Commerce with amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that passage of Calendar No. 494, S. 2176 which the Senate passed a few moments ago, be vacated and that the bill be returned to the Calendar.

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

AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE REPORT OF THE COMMISSION ON THE BANKRUPTCY LAWS OF THE UNITED STATES

The concurrent resolution (S. Con. Res. 58), authorizing the printing of additional copies of the report of the Commission on the Bankruptcy Laws of the United States for the use of the Senate Committee on the Judiciary, was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on the Judiciary one thousand additional copies each of parts I and II of the Report of the Commission on the Bankruptcy Laws of the United States (House Document 93-137).

Mr. MANSFIELD. Now, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the remainder of the calendar, beginning with No. 500, but excluding the last one on the calendar, No. 520.

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

EXTENSION OF LIFE OF JUNE 5, 1972, GRAND JURY OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

The bill (H.R. 10937) to extend the life of the June 5, 1972, grand jury of the U.S. District Court for the District of Columbia was considered, ordered to a third reading, read the third time, and passed.

JOSE A. SERADILLA

The bill (S. 97) for the relief of Jose A. Seradilla was considered, 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, for the purposes of the Immigration and Nationality Act, Jose A. Seradilla shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

MRS. ZOSIMA TELEBANCO VAN ZANTEN

The bill (S. 1673) for the relief of Mrs. Zosima Telebanco Van Zanten was

considered, 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 the administration of the Immigration and Nationality Act, Mrs. Zosima Telebanco Van Zanten, the widow of Sergeant San J. Van Zanten, Junior, a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of the said Act shall not be applicable in this case.

TOY LOUIE LIN HEONG

The bill (H.R. 1353) for the relief of Toy Loui Heong was considered, ordered to a third reading, read the third time, and passed.

ANN E. SHEPHERD

The bill (H.R. 1356) for the relief of Ann E. Shepherd was considered, ordered to a third reading, read the third time, and passed.

BERTHA ALICIA SIERRA

The bill (H.R. 1367) for the relief of Bertha Alicia Sierra was considered, ordered to a third reading, read the third time, and passed.

EMILIA MAJOWICZ

The bill (H.R. 1463) for the relief of Emilia Majowicz was considered, ordered to a third reading, read the third time, and passed.

SUN HWA KOO KIM

The bill (H.R. 1696) for the relief of Sun Hwa Koo Kim was considered, ordered to a third reading, read the third time, and passed.

ROSA INES D'ELIA

The bill (H.R. 1955) for the relief of Rosa Ines D'Elia was considered, ordered to a third reading, read the third time, and passed.

JOSE CARLOS RECALDE MARTORELLA

The bill (H.R. 2513) for the relief of Jose Carlos Recalde Martorella was considered, ordered to a third reading, read the third time, and passed.

ANKA KOSANOVIC

The bill (H.R. 2628) for the relief of Anka Kosanovic was considered, ordered to a third reading, read the third time, and passed.

MRS. ENID R. POPE

The bill (H.R. 3207) for the relief of Mrs. Enid R. Pope was considered, ordered to a third reading, read the third time, and passed.

MRS. BRUNA TURNI, GRAZIELLA TURNI, AND ANTONELLO TURNI

The bill (H.R. 3754) for the relief of Mrs. Bruna Turni, Graziella Turni, and Antonello Turni was considered, ordered to a third reading, read the third time, and passed.

EDITH E. CARRERA

The bill (H.R. 6828) for the relief of Edith E. Carrera was considered, ordered to a third reading, read the third time, and passed.

MR. JOSE ANTONIO TRIAS

The bill (H.R. 6829) for the relief of Mr. Jose Antonio Trias was considered, ordered to a third reading, read the third time, and passed.

CONCEPCION VELASQUEZ RIVAS

The Senate proceeded to consider the bill (S. 1206) for the relief of Concepcion Velasquez Rivas which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Concepcion Velasquez Rivas shall be held and considered to be within the purview of the first proviso of section 312(1) of that Act and may be naturalized upon compliance with all of the other requirements of title III of that Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MARIA LOURDES RIOS

The Senate proceeded to consider the bill (H.R. 3334) for the relief of Maria Lourdes Rios which had been reported from the Committee on the Judiciary with an amendment on page 1, in line 5, strike out the word "unlawfully" and insert in lieu thereof the word "lawfully."

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.

ISABEL EUGENIA SERRANE MACIAS FERRIER

The Senate proceeded to consider the bill (H.R. 3758) for the relief of Isabel Eugenia Serrane Macias Ferrier which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, for the purposes of the Immigration and Nationality Act and section 21(e) of the Act of October 3, 1965, Isabel Eugenia Serrane Macias Ferrier shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to special immigrants as defined in section 101(a)(27)(A) of the Immigration and Nationality Act: *Provided,* That the parents, brothers, or sisters of the said Isabel Eugenia Serrane Macias Ferrier shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

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.

VO THI SUONG (NINI ANN HOYT)

The Senate proceeded to consider the bill (S. 2112) for the relief of Vo Thi Suong (Nini Ann Hoyt) which had been reported from the Committee on the Judiciary with amendments. On page 1, in line 4, strike out "(Nini Ann Hoyt)" and insert in lieu thereof "(Nini Anne Hoyt)".

On page 1, line 7, strike out "Major and Mrs. Max B. Hoyt", and insert in lieu thereof "Lieutenant Colonel and Mrs. Max B. Hoyt".

On page 1, line 10, strike the word "natural", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Vo Thi Suong (Nini Anne Hoyt) 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 Lieutenant Colonel and Mrs. Max B. Hoyt, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the 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.

The amendments were 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 for the relief of Vo Thi Suong (Nini Anne Hoyt)".

RAPHAEL JOHNSON

The Senate proceeded to consider the bill (H.R. 2533) for the relief of Raphael Johnson which had been reported from the Committee on the Judiciary with amendments on page 1, in line 8, strike out "natural parents or".

On page 1, line 9, strike out "Gidharry" and insert in lieu thereof "Johnson".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ORDER OF BUSINESS

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

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

S. 2408. An act to authorize certain construction at military installations, and for other purposes;

S. 2681. An act to authorize appropriations for the U.S. Information Agency.

H.R. 5777. An act to require that reproductions and imitations of coins and political items be marked as copies or with the date of manufacture;

H.R. 7582. An act to amend title 10, United States Code, to entitle the Delegates in Congress from Guam and the Virgin Islands to make appointments to the service academies;

H.R. 8187. An act to amend section 2031 (b)(1) of title 10, United States Code, to remove the requirement that a Junior Reserve Officer Training Corps unit at any institution must have a minimum number of physically fit male students;

H.R. 10366. An act to amend title 10, United States Code, to remove the 4-year limitation on additional active duty that a nonregular officer of the Army or Air Force may be required to perform on completion of training at an educational institution;

H.R. 10369. An act to amend title 37, United States Code, to provide entitlement to round trip transportation to the home port for a member of the uniformed services on permanent duty aboard a ship being inactivated away from home port whose dependents are residing at the home port; and

H.J. Res. 735. A joint resolution authorizing the Secretary of the Navy to receive for instruction at the U.S. Naval Academy two citizens and subjects of the Empire of Iran.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

NATIONAL ENERGY EMERGENCY ACT OF 1973

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 2589, which the clerk will state.

The second assistant legislative clerk read as follows:

S. 2589, to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The Senate resumed the consideration of the bill.

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

The ACTING PRESIDENT pro tempore (Mr. METCALF). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. 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.

Under the previous order, 10 minutes will now be given to colloquy between the Senator from Washington (Mr. JACKSON) and the Senator from Colorado (Mr. HASKELL).

Mr. HASKELL. Mr. President, I should like to discuss two matters relating to S. 2589 with the distinguished Chairman of the Committee on Interior and Insular Affairs.

The first one appears on page 19 of the bill. Section 204(a) states that the President, in accordance with the rationing and conservation program required by section 203, after balancing on a plant-by-plant basis the environmental effects of a conversion, may order an oil or a gas burning installation to convert to coal.

I should like to ask the chairman of my committee, the distinguished floor manager of the bill, whether, as he understands it, this conversion would be subject to the overall plan of conversion and therefore the public health requirements of section 203(b)(1) would apply.

Would this be the Senator's understanding?

Mr. JACKSON. The Senator is correct. That is an accurate conclusion, based on the language of the statute, and it is my understanding.

Mr. HASKELL. And our intent.

Mr. JACKSON. Yes. My understanding and the intent of the sponsors of the measure.

Mr. HASKELL. The other matter to which I invite the distinguished Senator's attention appears on page 17 of the bill, on line 13. Among other actions that the President may direct to conserve energy is "a ban on all advertising encouraging increased energy consumption."

It seems to me that, on the one hand, this could be taken as intending to ban advertising of anything that happens to consume energy. That is not our intention. On the other extreme, it certainly could and should be taken as intending to ban advertising to convert your home to totally electrically heated and operated homes. The cases between the two extremes will have to be taken care of by regulation and on a case-by-case basis.

Would the Senator agree that I have stated to the two extremes properly?

Mr. JACKSON. The able Senator from Colorado has stated it well.

The first amendment, of course, still applies. We have not done anything to that. In between, it is an obvious area in which I think the Government can lay down certain requirements. This to avoid the possibility of a course of conduct that will result in such a profligate use of energy that it is against the public interest to do so.

Mr. HASKELL. I agree with the Senator.

I assume the Senator might concur with me that it would be very unwise for us to try to spell out in the statute all the gradations between those two cases.

Mr. JACKSON. The Senator is correct. I believe this can be handled by sensible rules and regulations. I hope that commonsense will be the guiding light of those who promulgate the rules.

What we intend is clear. We are trying to call upon all our citizens to follow a course of conduct that will lead to a reduction in the use of energy. Our emphasis is on that course of conduct which would indicate that there is a careless disregard for obvious rules of conservation. I believe that some of these things should have been put into effect even if we had not been confronted with the immediate crisis.

There is a great need in this country, Mr. President, to get off the energy binge. I am told that the two big Trade Towers in downtown Manhattan, with their lights on all night, consume as much energy as is consumed by the entire city of Syracuse. This does not make sense. I just cite that as an illustration. All these huge, new skscrapers that are going up, permitting their lights to operate 24 hours a day do not make sense, at a time when our citizens, regardless of what some are saying, are going to face rationing.

It is this sort of thing, it seems to me, that we must deal with, and deal with promptly. I am sure that my colleague and good friend, the Senator from Colorado, would agree with that general conclusion.

Mr. HASKELL. I agree heartily.

I thank the Senator, and I yield back the remainder of my time.

Mr. JACKSON. I thank the Senator. I think his questions should be helpful in clarifying the record, and I appreciate his putting these questions to the Senate.

AMENDMENT NO. 686

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the amendment by the Senator from Maryland (Mr. MATHIAS), on which debate is limited to 30 minutes, to be equally divided and controlled.

Which amendment is the Senator calling up?

Mr. MATHIAS. I call up my amendment No. 686.

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

The legislative clerk proceeded to read the amendment.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 30, beginning with line 21, strike out all through line 20 on page 31, and insert in lieu thereof the following:

SEC. 309. ADMINISTRATIVE PROCEDURE IN ORDER TO INSURE ACCOUNTABILITY AND DUE PROCESS.—(a) The functions exercised under this Act are excluded from the operation of subchapter 2 of chapter 5, and chapter 7 of title V, United States Code, except as to the requirements of sections 552, 555 (c) and (e), and 702 and except as to the requirements of section 553 as modified by subsection (b) of this section.

(b) All rules, regulations, or orders promulgated pursuant to this Act shall be subject to the provisions of section 553 of title V of the United States Code except that all rules, regulations, or orders promulgated must provide for the following:

(1) Notice and opportunity to comment which shall be achieved by publication of all proposed general rules, regulations, or orders issued pursuant to this Act in the Federal

Register. In each case, a minimum of five days following such publication shall be provided for opportunity to comment.

(2) Public notice of all rules, regulations, or orders promulgated by a State pursuant to section 203 of this Act shall be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) Any agency authorized by the President or by this Act to issue rules, regulations, or orders under sections 203, 204, 205, 206, 207, and 312 of this Act shall hold public hearings on those rules, regulations, or orders which are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses or when such hearings would serve to inform the public or aid in obtaining information on actions taken or proposed to be taken. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than sixty days after the implementation of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

Any agency authorized by the President or by this Act to issue rules, regulations, or orders may not waive any of the requirements set forth in this subsection except that the requirements set forth in subsection (b)(1) as to time of notice and opportunity to comment may be waived where strict compliance is found to cause grievous injury to the operation of the program and such findings are set out in detail in the rules, regulations, or orders.

(c)(1) In addition to the requirements of section 552 of title V of the United States Code, any agency authorized by the President or by this Act to issue rules, regulations, or orders shall publish in the Federal Register all internal rules and guidelines which may form the basis, in whole or in part, for any rule, regulation, or order. Such agency shall also support any grant or denial of a request for exception or exemption from rules, regulations, or orders with a written opinion setting forth its findings of fact and conclusions of law in support of such grant or denial. Such opinions shall be published with such modifications as are necessary to insure confidentiality of information protected under the Freedom of Information Act.

(2) Any agency authorized by the President to issue rules, regulations, or orders under this Act shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or recision of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

(d) All proposals which the President submits for the approval of the Congress pursuant to section 301 of this Act and subsequent amendments and modifications thereto for the emergency fuel shortage contingency programs provided for in title II of this Act and for implementing such programs shall include the following:

(1) findings of fact and a specific statement explaining the rationale for each provision contained in such proposals,

(2) proposed procedures for the removal of the restrictions imposed by such plan or program,

(3) a schedule for implementing the provisions of section 552 of title V of the United States Code, and

(4) administrative definitions of the terms use in this Act.

The ACTING PRESIDENT pro tempore. How much time does the Senator from Maryland yield?

Mr. MATHIAS. I yield myself 10 minutes, to start with.

Mr. President, I should first like to express my personal appreciation to the distinguished Senator from Washington for the leadership he has shown over the problem of energy. As the Senator from Washington well knows, the problem of energy is not something which has suddenly burst upon us. It is a problem which has been developing; it is a problem which has been perceptible; it is a problem in which Members of Congress have exhibited concern and interest.

Among the agencies of Government that have been charting the development of this problem is the Atomic Energy Commission, and they have made very clear projections of the growing shortage of energy in relation to the growing demand for energy. I think the Senator from Washington, as well as other Members of both the Senate and other body have exhibited constructive interest in this problem, and I only regret that it took the convulsion in the Middle East to dramatize it to the point that we now have the sufficient focus of attention that we can do something about it. I wish there had been a greater interest on the part of other centers of influence in the country, a greater interest in resolving the problem, before we got to the point at which we are now.

To cite one example, I have been very disappointed that we have heard so little from Detroit during this debate. It would be very heartening to me if we had reports from the leaders of the automobile industry that an efficient, economic small car was about to be produced in America—the best in the world. I hope that is the case. I hope we will get some assurances from the leaders of the automobile industry in Detroit that America, instead of building bigger automobiles that consume more gas per mile, will soon be building the most efficient automobiles and giving the Americans the greatest mileage per gallon.

I do not know whether the Senator from Washington has had any assurances of that sort with which he can encourage the Senate this morning.

Mr. JACKSON. The Senator is referring to——

Mr. MATHIAS. Plans of the automobile industry for more efficient automobiles; plans that give us some hope for the future that Americans could have the most efficient automobiles in the world—which I believe American automotive genius is capable of.

Yet I have seen very little evidence of that rapidly evolving. I think the silence from Detroit has been deafening during the past month or so.

Mr. JACKSON. The Committee on Interior and Insular Affairs has reported a conservation bill calling on the Department of Transportation to come up with a program which will result in two things: Clean air and better gasoline mileage. How they do that is up to them. There have been many arguments about horsepower: that we ought to reduce the size of automobiles, reduce the horsepower, which I certainly think is a necessity. Others say we can still have a larger automobile and save fuel.

One mistake we have made that we should recognize, is that in our quest to get clean air we ignore the price we are paying in the consumption of gasoline. The result has been that we are getting cleaner air as a result of a greater consumption of gasoline.

No attention was paid to the conservation problem when we were looking at the clean air problem. This means that at the present time we face the obvious problem of having to do both.

It seems to me that the industry can do a lot better. I notice that the Japanese have been able to come up with an engine that really does something about pollution and at the same time provides good mileage. Those are the twin objectives. We were on a single purpose objective before.

I submit we now have to move on the dual purpose. The bill reported was cleared by both of the committees, and it is now on the calendar. So we will be voting on that whenever we get through with some of these other matters.

Mr. MATHIAS. I agree with the Senator from Washington that we have to face in a comprehensive fashion the problems that are involved. I think it is a great pity that mileage, miles per gallon in modern automobiles, is so much less than those automobiles of 10 and 20 years ago. The problem of the antipollution devices is not the sole reason for this. But during the past weekend the blame has been lack of leadership. I believe we would be better off if everyone who has a position of responsibility would begin to exercise that leadership.

Mr. President, I would like to offer my amendment. It is designed to insure that two principles basic to the fair administration of law are made an integral part of the bill. Accountability for action taken or not taken and due process for all are the cornerstones of our Government.

Insuring that these principles guide the administration's efforts to deal with present and future energy shortages is of special importance at this time. All Government, no matter what level, has suffered a severe crisis of confidence in recent months.

The tragic events of Watergate demonstrate that abuses of the public trust will occur when individuals believe that power is unchecked and that public officials will not be held accountable for their actions.

S. 2589 grants wide authority to the executive branch and consequently there exists an inherent danger that the discretion will be abused. Section 203 of the bill authorizes the President to establish a rationing and conservation program which will have the most profound effect upon American life. Decisions will have to be made as to what are nonessential uses. Little guidance is provided for making those decisions. Maybe we can agree

upon certain types of outdoor advertising and recreational activities to be banned, but I assure Senators that even in this area there are types of outdoor advertising and recreational activities of great importance to the people of this Nation. When choices are made, they will be difficult choices.

Bureaucrats will be making decisions on matters going to the very heart of our national life. Can we make a proper choice between indoor tennis and Monday night football; can we make a proper choice between bowling and car racing?

Choices will have to be made in other matters as well. Matters which will affect whole regions of the country, entire industries and the jobs of many Americans. When the President is asked to ban all advertising encouraging increased energy consumption, he is again faced with difficult, if not impossible, choices. Certainly there are ads which, all of us can agree, are out of step with the times. Advertisements which blatantly encourage the purchase or use of new energy wasteful gimmicks must be eliminated. But does this include one man's hi-fi set or another man's TV dinner? What about car advertisements? Should they all be banned? Is it appropriate to make a distinction between large and small cars; between cars using a lot of gasoline and cars which are designed to conserve gas? How will the rationing system deal with the rental car business; the taxicab industry; cities where commuting distances are great and mass transit inadequate versus those areas blessed with short commutes and good mass transit? Beyond these decisions lies the specter of regional conflict. Entire value systems will be placed in doubt.

By the terms of this bill, all the Federal agencies with any responsibilities over energy policy are mandated to take emergency measures to relieve the crisis. It is appropriate at this point to note that the Federal Government has over 50 offices, agencies, bureaus, and councils actively engaged in energy policy and that coordination in the past has been a severe handicap. The President has long advocated the consolidation of these various instrumentalities concerned with energy policies and I have supported him. Nevertheless, we have failed to act and little Federal coordination exists in this area. Maybe this Nation can survive such coordination problems when we operate at a normal pace. It goes without saying that the actions we take in the coming days and months to relieve our energy shortage will not be taken at that pace. The consensus in this body, in the other body, in the executive, and across the Nation is that "business as usual" in the energy field is no longer acceptable. I am concerned that this acceleration will exacerbate the lack of coordination at the Federal level to the point where the cure which we propose today will be worse than our illness.

Over the years, the Interstate Commerce Comission, the Civil Aeronautics Board, and the Federal Maritime Commission have established a body of case law which, to a significant degree, insures a consistent and fair approach to regulation. S. 2589 could permit a great deal of that case law to be discarded. Energy may be the most pervasive influence upon our society today. We will by this bill create a code word to be used at all hearings before those agencies so long as the provisions of S. 2589 remain in force. The code word is "energy" and when it is spoken we can, as coaches, often remark "throw out the record book."

The Congress should be guided by our Nation's history. We have faced emergencies before and I predict we will face them again. Unfortunately, it is human nature when an emergency arises to underestimate the importance of the process created to solve the emergency. Contingency planning becomes the order of the day. Unfortunately, such plans cancel, contradict, and reinforce each other by accident. Few are logically related to one another, and none to any overall image of what the future should be.

The scope of the problem we face today is not unprecedented. But to a great extent the solution we propose is without precedent. Our grant of authority to the Executive is virtually unlimited. The closest peacetime parallel which comes to mind is the grant of authority to the Cost of Living Council under the Economic Stabilization Act.

On October 9 and 10, I chaired hearings in the Subcommittee on Separation of Powers of the Judiciary Committee on procedural and due process problems that have arisen with the implementation of the wage/price program. Those hearings were prompted by an increasing outcry from the public that the program was not working and from those directly regulated complaining of the procedures employed by the Cost of Living Council.

During our hearings, we explored a number of these complaints which included the inadequacy of notice of actions being taken by the agency, the general unavailability of the guidelines and standards upon which the agency was basing its rulings, the lack of clear-cut precedential value of agency actions, the inconsistencies in agency decisions, the failure of the agency to consider factors that might have been taken into account with proper opportunity for input to the agency, and the unconscionable delays associated with agency actions.

During those hearings, we heard from witnesses who were representative of a broad cross section of the American public. We saw one of the more rare events on Capitol Hill: almost total agreement between a spokesman from Ralph Nader's organization and a spokesman from the prestigious law firm of Covington and Burling about the difficulties of the manner in which the program is being implemented. Not only is such an event rare, it is a cause for great concern because it is evidence of the almost universal unhappiness with the way in which the cost of living program is being run. A statement I made in announcing the hearings on the cost of living program bears repeating in the current context:

> This much seems clear—no program will long retain, or deserve, popular support if its decisions are not arrived at by a process that appears open, fair, consistent, thorough, rational, enforceable, and necessary.

I offer my amendment because I am concerned that we are about to travel the same rough road with respect to energy policy that we have already trod with respect to economic policy. My concern is heightened by the fact that the bill as reported by committee contains a section, section 309, which addresses itself to the procedures to be employed by the new authority administering the act. This section is virtually identical to section 207 of the Economic Stabilization Act, which has already proven itself inadequate in its current trial and gives no promise of any better result when applied to the comparable problems presented by the program we are undertaking today.

I should add that section 207 of the Economic Stabilization Act was itself a vast improvement over the original authority to control wages and prices which had no procedural safeguards. I note this not only by way of commending the members of the Senate Committee on Banking and Currency, which added section 207 to an act that had previously been totally devoid of any procedural safeguards, but to indicate the extent to which Congress is feeling its way along in uncharted waters.

Authority as broad and extensive as was provided in the Economic Stabilization Act, and as proposed in the bill before us today, raises questions that go beyond those normally raised by the administrative process. The amendment I propose today I believe to be a further step in the safeguarding of procedural rights. I believe that experience has shown that we must go beyond the model provided by the current Economic Stabilization Act and add additional safeguards and requirements to any authority that we delegate to S. 2589.

In the context of today's debate, the question which logically flows from our experience with the Cost of Living Council is whether the energy program will be better. I am pessimistic. In the past 2 months, I have written to Robert Plett, Administrator of the Mandatory Oil Allocation Program, Office of Oil and Gas, Department of the Interior, on five occasions and requested information on the application of regulations to various Maryland constituents: what steps were to be taken to insure petroleum products for the taxi industry; the diesel fuel shortage on the Eastern Shore of my State; whether the mandatory allocation system is to include foreign-based distributors; what steps were being taken to insure heating oil for Maryland school systems; and the continuing difficulties of small Maryland companies in getting their allotted quota of diesel fuel. I have received neither an acknowledgement nor a response to any of the inquiries, the most recent of which was October 25.

Members of my staff have called the Office of Oil and Gas on probably 15 occasions. They have talked to caseworkers, to the General Counsel, to congressional liaison personnel, and to the Regional Administrator, region III in Philadelphia.

Oil and Gas staff seem to agree on one thing, and that is that they do not know in what direction they are going. When

asked specific questions, such as the ones outlined above, the response was, "We don't know." By their own admission, region III of the Office of Oil and Gas admitted that they did not know how the allocation program was supposed to work; that their concern as of November 8 was only those people who had no oil at all on that day. In other words, they had no plans that extended beyond 24 hours. The fact which stands out is that no one can give an answer to any sort of specific inquiry, despite the fact that there is in existence a mandatory allocation system.

My amendment is in the form of a substitute to section 309 of S. 2589. It would strengthen the committee version of that section in a number of specific instances.

The days ahead will be difficult; difficult for the Congress and difficult for those who must administer the final version of the legislation we pass today. This Nation's economy has been built on waste and we now realize that this cannot continue. In the past, oil has been considered a cheap commodity and consequently inefficient uses of it have proliferated. American cars are world leaders in inefficient gasoline consumption. The Europeans and the Japanese, for many years closer to the razor edge of oil scarcity, have produced more efficient, smaller cars to meet their people's needs. I can assure Senators that over-large, gasoline-guzzling automobiles continue to roll down the assembly lines in Detroit. They were produced yesterday; they are produced today, and I am afraid that they will be produced tomorrow. S. 2589 sets our course and I am concerned that it is the wrong course. We rely in the first instance on a voluntary effort with all the drawbacks long associated with volunteerism. Waiting in the wings is a mandatory rationing program. We are asking the rationing program to deflect demands of the marketplace to efficient energy use and abstention. We may ask the impossible. The unseen hand of the marketplace is a powerful force; far more powerful than the regulatory framework that we can provide. Regulation only has a chance of success if we move quickly to enact the tough measures that will force the auto industry and the buying public towards producing and using smaller and lighter cars. We must consider whether a tax on high horsepower cars or indeed a tax upon gasoline itself may provide relief to the regulatory framework which we now propose. Over the past months Congress has received a number of proposed solutions to the short term aspects of the energy crisis. They can be divided into two categories—taxes or regulation. We now propose to regulate. We owe it to the American people to keep our minds open; to not chart an irrevisable course. Our efforts cannot end with the passage of S. 2589. We must view the entire breadth of the economy to find the disincentives to conserve.

So, I think it especially important, Mr. President, that at this particular point in time we insure that the bill we pass will provide accountability and due process. John Buchan once said:

The hasty reformer who does not remember the past will find himself condemned to repeat it.

I have stated my doubts as to whether this program will work and I consequently feel that it is imperative that we enact measures that will insure that the results of administrative action are laid before the Congress in the near future. This kind of responsive accounting will do much to restore faith in government. It has been my experience through hearings held by the Subcommittee on Separation of Powers of the Judiciary Committee that if you expect to get hard information on the success or failure of an emergency program, you had better ask for it from the start and my amendment makes that request.

In order to make the amendment totally clear to Members of the Senate, I would at this time offer for the RECORD an appendix which is a summary of the provisions of the bill, and I ask unanimous consent that it may be printed in the RECORD.

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

APPENDIX.—CONTENTS OF MATHIAS-ERVIN AMENDMENT IN THE FORM OF A SUBSTITUTE TO SECTION 309 OF S. 2589

1. This amendment would continue to apply the requirements of Section 553 of Title V of the United States Code: the provision of the Administrative Procedures Act governing rulemaking, but would restrict the discretion of the authority implementing the Act to waive those provisions. One of the chief difficulties of our current experience with Section 553 of the Administrative Procedures Act is the wide latitude available for waiving its requirements. Subsection (b)(1) of my proposed amendment would require a minimum of 5 days' notice with an opportunity for comment on all proposed rules, regulations, or orders issued pursuant to the Act. This requirement could not be waived unless findings are made that such time period would cause grievous injury to the operation of the Program and those findings would have to be set out in detail. Too often, Federal agencies employ boilerplate language to waive the requirements of Section 553 of the Administrative Procedures Act because to do so is more convenient. Convenience would not be an adequate standard under my amendment.

2. This amendment provides a mechanism whereby proposed rules, regulations, or orders establishing plans or programs at the state level can be disseminated at that level. While the proposal is unusual in Federal legislation, it is common to many state laws and is, in my judgment, necessary in this case since states and metropolitan areas will be called upon to implement the Federal program.

3. This amendment contains additional hearing requirements not imposed by Section 553 of the Administrative Procedures Act. Subsection (b)(3) of the amendment would require a public hearing on rules, regulations or orders which are likely to have a substantial impact upon the Nation's economy or larger numbers of individuals or businesses or when such hearings would serve to inform the public or aid in obtaining information on actions taken or proposed to be taken.

Such hearings would, to the maximum extent practicable, be held prior to the implementation of any rule, regulation, or order However, where this is not possible, but where the statutory criteria are met, the amendment provides that hearings shall be held no later than sixty (60) days after the implementation of any such rule, regulation, or order. The premise is that review, even after the program is underway, is better than no review at all. This provides a mechanism for modifying measures which may have been taken under emergency circumstances and an opportunity to re-evaluate as soon as possible thereafter. Since the actions that could be taken under the authority of this Act could cause great hardship and destroy businesses, any delay beyond sixty (60) days is not justified.

4. Subsection (c)(1) of the proposed amendment establishes certain requirements suggested by my review of the Cost of Living Council. One of the chief difficulties with the wage/price program is the public's inability to obtain information on the activities of the Cost of Living Council. Similar difficulties can be anticipated with the agencies administering the Energy Act. Subsection (c) requires the publication of all internal rules and guidelines which may form the basis in whole or in part for any rule, regulation or order and prevents the Agency from relying upon or using any such internal rule or guideline that has not been published in support of its action. I believe that the public should be fully apprised of the criteria upon which decisions are being reached and that all such information must be made widely available. Without such a provision, parties who think they might be entitled to an exception or an exemption are at a total loss in reaching their determination about whether to apply. They can have no confidence about the information they submit in support of their petition or in the result of the process, a grant or denial.

Similarly, the Agency should be required to set forth written opinions in support of its grant or denial of petitions in a form that will give them precedential value to apprise the regulated of their rights and obligations, to ensure consistency of decisions, and to limit unfettered Agency discretion.

Subsection (c)(2) adopts the Bentsen Amendment to subsection (b) of Section 309 of the bill as reported. The Bentsen Amendment has been accepted by the Senate.

5. Subsection (d)(1) of my amendment would require findings of fact and a specific statement explaining the rationale for each provision of plans or programs set forth under the authority granted by this Act. The Government has an obligation to explain the basis of its actions.

6. Subsection (d)(2) of my amendment looks to the future. It would require, at the outset, that each plan or proposal include proposed procedures for the removal of restrictions that it would impose. The time to begin planning for the future is now and subsection (d)(2) would build this planning into the current process.

7. Subsection (d)(3) of my amendment would require the preparation of a schedule for implementing the requirements of Section 552 of Title 5 of the United States Code at the outset. Without rapid implementation of these requirements, the Program could quickly become unmanageable. Section 552 is one of the chief vehicles for disseminating information to the public and, in a program as vast in scope as that proposed in S. 2589, the implementation of those provisions deserves special attention.

8. Subsection (d)(4) would require the immediate preparation and publication of definitions of terms used in the Act. Such definitions will be helpful in giving meaning to many terms used in the Act.

Mr. MATHIAS. I repeat that this amendment arises from some of the disappointment, some of the frustration; some of the difficulties we have observed in the operation of the Cost of Living

Council, as it administers wage and price controls.

As I indicated the Subcommittee on Separation of Powers of the Committee on the Judiciary, of which the distinguished Senator from North Carolina (Mr. ERVIN), a cosponsor of this amendment, is chairman. We held hearings on the Cost of Living Council, and we found very substantial difficulties facing business, the consumer, labor, and in fact, plaguing the whole economic scene. It is the result of that observation which leads us to offer this amendment this morning.

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

Mr. MATHIAS. Mr. President, I yield myself an additional 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized.

Mr. JACKSON. Mr. President, I would like to ask the Senator a question. I will give the Senator as much time as he desires. I think the Senate would like to have a better picture of the basic changes that will be made by his amendment of the rules that now apply under the Administrative Procedure Act. I think that would be helpful. We all want to provide proper notice of hearings. What we do not want to create is a situation in which the rules are going to bog down the emergency administration of the act.

I appreciate deeply what the Senator is endeavoring to do, and I think it would help all of us if we could get a more specific picture of what the changes would be. Some changes in the Administrative Procedure Act are necessary if we are going to get this job done. At an appropriate time when the Senator has an opportunity, I would like to be enlightened on it because, frankly, I am not too familiar with all the details of the Administrative Procedure Act.

Mr. MATHIAS. I think this is the best time to go into the points you raise.

This amendment deals with section 309 of the bill, as amended by the distinguished Senator from Texas (Mr. BENTSEN). Under section 309, the safeguards of section 553 of the Administrative Procedure Act can be waived. This is exactly the problem which we focused on with the Cost of Living Council and wage and price controls.

As I indicated, one of the chief difficulties of our current experience with section 553 is the wide latitude available for waiving its requirements. Subsection (b)(1) of the pending amendment would require a minimum of 5 days notice with an opportunity for comment on all proposed rules, regulations, or orders issued pursuant to the act. This requirement could not be waived unless findings are made that such time period would cause grievous injury to the operation of the program and those findings would have to be set out in detail.

This addresses itself precisely and exactly to the problems which the business community and the consumer are having under wage price controls.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

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

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized for as much time as he desires to consume up to 17 minutes.

Mr. MATHIAS. I thank the Senator.

Mr. President, this exactly addresses itself both to the problems of the business community and the consumer. Their problems arise because they cannot find out the basis for decisions that are being made. For example, they cannot find out the statistical background against which the decisions are being made. They have no ability to project decisions into the future because the information upon those decisions were based is not available.

So what we are suggesting here are some safeguards so that information can be made available as we go along and so that the public can understand what is happening as it is happening.

The amendment further provides the mechanism whereby proposed rules, regulations, or orders establishing plans or programs at the State level can be disseminated at that level.

We understand this is unusual in Federal legislation. It is, however, a common provision in State law and I think it is necessary in this case since States and metropolitan areas will be called upon to implement the Federal program. We already have statements on the part of Governors and other State officials with respect to their intentions.

The amendment contains additional requirements which are not imposed by section 553 of the Administrative Procedure Act. Section (b)3 of the amendment would require hearings on rules, regulations, or orders which are likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses or when such hearings would serve to inform the public or aid in obtaining information on actions taken or proposed to be taken.

I think this gives to the Senator from Washington some sense of what the authors of the amendment propose and of the safeguards it will provide for the American public. I think that without it, the public will again be subjected to the dangers of widespread executive authority which, exercised through bureaucratic agencies, can tend to become arbitrary and authoritarian. Unless the public has access to information, records, and decisions, and unless decisions are arrived at openly, we may have petty tyranny which is characteristic of unchecked control.

I would further observe, in response to the question of the Senator from Washington, that section (b)1 would require findings of fact and a specific statement explaining the rationale for each provision of the plans or programs that are set forth under the authority granted by the act.

As it exists at present, the Government has the obligation to explain the basis of its actions in order to get the confidence of the people. The confidence of the people is absolutely necessary and essential if a program of this sort is to be successful.

Section (d)(2) is a program that looks to the future. It would require, at the outset, that each plan or proposal include proposed procedures for the removal of restrictions that it would impose.

The time for planning for the future is now.

Section (b)(3) would require the preparation of a schedule for the implementation of title V at the outset.

In S. 2589, the implementation of these provisions, I think, deserves special attention. Subsection (d)(4) would require the immediate preparation of the publication of definition of terms used in the act. I think that such definition will be helpful in giving meaning to many of the terms used.

Again, referring to the experience we had in the oversight hearings into the operation of the Cost of Living Council, I would observe that this much seems clear: That no program will be successful if such definitions are not provided.

The purpose of the amendment is to provide procedures which will convince the public what is being done under the program is rational and necessary. I believe that the procedures we outline here will help to make it so.

Mr. JACKSON. Mr. President, will the Senator yield? I shall be happy to speak on my own time.

Mr. MATHIAS. I yield.

Mr. JACKSON. I am in sympathy with what the able Senator from Maryland is trying to do. Very candidly, my problem, I think, is that I am not certain just exactly what we are doing. To put it in another way, I am not sure how much litigation we are going to get under the proposal. We have the Administrative Procedure Act, which does need some adjustment in section 309. On Friday, we adopted a part of the Senator's suggestion. I believe that that amendment was offered by the Senator from Texas (Mr. BENTSEN). It provides 5 days notice of rulemaking. It is a good amendment. The procedure would require, as the Senator from Maryland's does, that the State give notice of publication of whatever rule is made, and that is good. I go for that. I am concerned about the date and the proposal. All of these are variances from the Administrative Procedure Act. There is one that requires a public hearing on regulation B, even after it has been adopted. I suppose there is no harm in it, but I am just wondering how big a snarl we are going to get into.

I see no problem on the next item, that requires the publication of internal guidelines. I do not see any harm in that provision.

I guess what I am worried about is whether someone can come along and, in the midst of a very important conservation effort, get tied up in endless litigation, which will take long enough so as to do violence to the objectives of the act. That is what troubles me.

If there were some cutoff on litigation, especially on the injunctive process, that might not be so objectionable. But an injunction might be obtained under this particular amendment that could tie us up for weeks. That is my concern.

Mr. MATHIAS. I understand the Senator's concern.

Mr. JACKSON. I am wondering if we could not have a short recess, to see if we could make some changes that might be acceptable. If we could have a quorum call, we could then see if we could try to make some adjustment. I know of the Senator's concern. I am as deeply concerned as he is, when we consider what has grown out of the experience in the Cost of Living Council. There have been a number of real snafus.

Mr. MATHIAS. I think that a lack of confidence in the Cost of Living Council has cost the Nation much more than whatever time may have been invested in orderly procedure. It seems to me that the greater the emergency, the more the necessity for proper administrative procedure.

But I would welcome the Senator's suggestion and would agree to a quorum call.

Mr. JACKSON. Mr. President, I ask unanimous consent that there be a quorum call. Despite the previously entered unanimous-consent arrangement, I ask that the time for the quorum call not be charged to the time previously agreed to on the Mathias amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. JACKSON. Mr. President, I ask unanimous consent that the Mathias amendment be temporarily laid aside. I think we are in the process of working out a satisfactory substitute, and in the meantime I ask unanimous consent that the order previously entered for the recognition of the Senator from New York (Mr. JAVITS) for 20 minutes now be in effect.

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

AMENDMENT NO. 683

Mr. JAVITS. Mr. President, it is my intention to call up two amendments at this time. One is No. 683, which I would like to have considered first.

The ACTING PRESIDENT pro tempore. Amendment 683 will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JAVITS' amendment (No. 683) is as follows:

On page 16 between lines 2 and 3 add the following new section:

(d) It is the sense of the Congress that since the present energy crisis is very much an international problem which calls for an international as well as domestic response, therefore the United States should endeavor to conclude an appropriate agreement with the other member nations of the Organization for Economic Cooperation and Development, or so many as may be agreed upon in such agreement, relative to the supplies of energy available to the industrialized nations of the free world and with special reference to joint or cooperative research and development for alternative sources of energy.

The ACTING PRESIDENT pro tempore. How much time does the Senator wish to use?

Mr. JAVITS. I yield myself 4 minutes.

Mr. President, this amendment proposes a finding in section 202, which is headed "Presidential authorization," and adds a new subsection (d), stating that it is the sense of Congress that we should enter into negotiations for an appropriate agreement with the other member nations of the Organization for Economic Cooperation and Development, that is, the other 20 nations, which include three European neutrals and Japan, or as many as may be agreed upon in such agreement—and I shall explain that in a moment—relative to the supplies of energy available to the industrialized nations of the free world, and with special reference to joint or cooperative research and development for alternative sources of energy.

Mr. President, the reason for this amendment is as follows:

First, in explanation of the words "or so many as may be agreed upon in such agreement": Every international agreement generally calls for a certain number of nations to enter into it before the agreement becomes binding, and as that is a matter of negotiation, it cannot be concluded in this amendment.

But my reason for offering the amendment—and I compliment Senator JACKSON and Senator FANNIN on the drafting of section 202, headed "Presidential authorization"; I would not have offered the amendment at all if I felt that that covered it, because I think that, on the whole, they have foreseen most contingencies. The difficulty with the section as it stands, insofar as what I am proposing is concerned, is the use of the word "imports" on line 20 and the use of the word "trade" on line 21.

I am trying to reach yet another problem, which is the complete unpreparedness of the industrialized countries of Western Europe, of which I am especially conscious because I have just headed a major committee which has made a rather historic study on the subject in respect to finding alternative sources of energy and cooperating in the research, for which there may be a bill of billions of dollars for various types of research in which they could engage.

I am troubled that the use of these rather restrictive words "imports" and "trade" may not cover that particular thing. Also, Mr. President, as our European allies are constantly complaining about "consultation," it seems to me that it would be highly desirable to put Congress on record as saying, "By all means, gentlemen, we want to consult, and we want to consult to good effect, we offer you this opportunity." That is by virtue of the views of Congress. I have made it expressly a sense resolution because I did not wish to bind the committee or to bind the country.

Mr. JACKSON. I want to compliment the Senator from New York for offering the amendment. I am sure he had the opportunity to discuss the matter with some of the OECD people when they were here several months ago. May I say to him, I met with Dr. Spaak, the son of the famous Prime Minister and former Secretary General of NATO, when he was here and I mentioned at that time the urgency of the situation; I suggested, too, that there was an area of cooperation which would be mutually beneficial to our friends in the Atlantic community. Specifically in the area of research and development, we could all profit by the kind of thing that the able Senator from New York is endeavoring to do. I compliment him for it. My only regret is that there has been no movement.

Mr. JAVITS. Exactly.

Mr. JACKSON. I pointed out last spring, or whenever the group was here, that time was running out and that we did not have a contingency plan in the Atlantic community to deal with a cutoff in the Middle East.

I have felt for a long time that that was going to happen and that is why I wrote the President in June of 1972 suggesting that we get our foreign policy priorities in order. This particular part of it is the most important. In fact, priority No. 1 in the energy business from the beginning has been foreign policy and how we deal with the problems of imports at a time when our Nation is importing this year probably 35 percent of all its petroleum products.

I am very pleased to accept the amendment. I think it could be very helpful.

Mr. JAVITS. I thank my colleague. I now yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I thank the Senator from New York. I concur with the manager of the bill and feel that this amendment is necessary. In fact, it is long overdue. We must work together with the other OECD countries, or suffer further blackmail by the Arab countries. I am more disappointed that the OECD countries have not been willing to work with us to a greater extent for the benefit of the free nations of the world. I am hopeful that this amendment will be helpful in explaining the intent of this legislation.

Mr. JAVITS. I thank my colleague. Congress can express itself in a way to enable it to hold the administration to account for progress in this field. I am very grateful to the manager of the bill, and the manager of the bill on the part of the minority, for being willing to take the amendment.

Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. JAVITS. May I reserve the remainder of my time and yet have this amendment voted on at this time?

The ACTING PRESIDENT pro tempore. By unanimous consent.

Mr. JAVITS. Mr. President, I ask unanimous consent that this amendment may be voted on at this time and to reserve the remainder of my time.

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

The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

AMENDMENT NO. 653

Mr. JAVITS. Mr. President, I call up my amendment No. 653 and ask that it be stated.

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

The second assistant legislative clerk read as follows:

In section 202(c), following the word "appropriate." add: "If, at any time following receipt and consideration of the aforementioned interim report, the Congress agrees to a concurrent resolution terminating the action taken pursuant to the declared nationwide energy emergency, all authority granted by this Act shall expire thirty days after the passage of such concurrent resolution.".

Mr. JAVITS. Mr. President, I join in this amendment with the Senator from Oregon (Mr. HATFIELD). It is intended to give Congress the option to terminate the program which we are legislating here at the end of a 6-month period in which the President is required to submit to Congress an interim report on the implementation of the act, together with such recommendations for amending or extending the Act as he deems appropriate.

Many Members are concerned about the enormous grant of power which is here given to the President. By turning down the rationing, which was a very close question—I voted against immediate rationing—I have since talked with Senator JACKSON and told him about my own disquiet if we get into a situation where the President does not want rationing. I want to give him an opportunity to do it without holding a stick over his head and the situation gets not discriminatory or unequal so far as the American people are concerned.

Therefore, Mr. President, although the legislation does not say so, the President can terminate it simply by virtue of the fact that he has the authority to put it into effect. So I think we, too, should have that option. If at the end of 6 months we are not satisfied this has gone the way we want it to go in this amendment which I have proposed, it would give us that authority by concurrent resolution. The concurrent resolution technique is always a matter of discussion and challenge. In this case, it is uniquely appropriate because the granting of authority is given to the President by this legislation. Therefore, we can terminate that authority sooner if we wish than the letter of the statute absent this provision would otherwise allow us to do by virtue of the expiration of the authority. But if we do not give the expiration of the authority, the matter is out of our hands for a full year. Considering the emergency and speed with which this matter moves, it is an elementary precaution that Congress should take.

Mr. JACKSON. Mr. President, speaking only for myself, I want to say that I think the amendment proposed by the Senator from New York is a very helpful one and gives Congress rightful control over the situation. It does not impede the work that is necessary under the provisions of the act. I think that Congress should retain the authority to pass such a concurrent resolution.

Mr. JAVITS. I thank my colleague and I yield to the Senator from Arizona.

Mr. FANNIN. I should like to say to the distinguished Senator from New York that we discussed this matter with Senator Hatfield. I am not sure we had a vote on this amendment, but this matter could cause uncertainty for anyone preparing for an emergency.

The ACTING PRESIDENT pro tempore. The time of the Senator from New York has expired.

Mr. JAVITS. The other side has time on this.

Mr. FANNIN. The amendment could raise doubts about the wording of the proposed regulations. I understand the intent of the Senator from New York, and I compliment him for attempting to accomplish the objectives he sees necessary. However, I am not in favor of the amendment, because it fails to provide groups taking emergency actions the assurance of a definite time period for followthrough.

Mr. JAVITS. Would the Senator allow me to explain?

Mr. FANNIN. I would appreciate it very much.

Mr. JAVITS. I think that this amendment, Senator FANNIN, who knows that we can vote on it at a later time——

Mr. FANNIN. Yes.

Mr. JAVITS. Does exactly what Senator FANNIN himself has mentioned for the following reasons: One, it is operative only at the end of 6 months. In other words, everything required to be done under the act, putting the plans into effect, the State plans, and so forth, will have been done, and only after the first report, which is 6 months. So that is point No. 1.

Second, the President himself could eliminate the program at any time. All we are doing is giving ourselves the authority, too. So that the element of uncertainty, if there be uncertainty, is just as great. If the President can do it, we can do it, except we yield the authority for a year to the President.

I do not know what the committee discussed by way of giving Congress the power to terminate, but this is only operative at the end of 6 months.

I think that is very clear from the text, if the Senator will follow me. The report is due within 6 months. My amendment says that only after the report is submitted may Congress terminate the authority, and the termination—because you have to make it effective—would be effective 30 days thereafter.

In short, it does not impede or put people in any more doubt than the President's authority does. For the first 6 months, it is absolutely solid: We join with the President in saying, "OK."

Mr. FANNIN. I understand. This matter was brought up during the hearings, and at one time we did specify 6 months. Then in the interest of remaining consistent we provided for the 1-year period.

Mr. JAVITS. Mr. President, I understand that the practice, if we are to have a rollcall—and I would seek a rollcall—would be to put this amendment over for the vote until 1 o'clock. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. I ask unanimous consent, then, that the vote on this amendment may take place at 1 p.m., following other amendments that may be similarly situated.

Mr. JACKSON. There is no other amendment.

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

Mr. JAVITS. Mr. President, I have no further business. I yield back the remainder of my time.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I believe that the next item, under the unanimous-consent agreement, would be the Helms amendment.

The PRESIDING OFFICER. The Senator is correct.

The Senator from North Carolina is recognized.

AMENDMENT NO. 656

Mr. HELMS. Mr. President, I call up my amendment No. 656, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the appropriate place at the end of section 203(b)(2) in title II, insert the following: "limitations on the transportation of students enrolled in schools operated by local or State educational agencies, as defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, in order that students may walk to school insofar as possible without public transportation, or be transported through public means of conveyance no further than to the appropriate school nearest their residence".

Mr. HELMS. Mr. President, I have no desire to consume unduly the time of the Senate in a lengthy discussion of my amendment. If ever this Senate was presented with a clear-cut, straightforward proposition, this is it.

Every Senator, without exception, has sincerely declared his desire to conserve our Nation's energy supply in this time of great crisis. The purpose of this amendment is, and the immediate result of its enactment will be, an enormous saving of gasoline that is now being literally wasted.

I will not repeat the detailed remarks that I made in this Chamber on last Wednesday at the time I submitted this amendment. For the purposes of emphasis, I will reiterate that during the process of drafting this amendment, I spot checked four school districts in my State. I obtained the exact statistics of gasoline consumption by public schoolbuses in these four districts for the 12-month period before compulsory school busing was ordered. Then I compared

that total with the gasoline consumption by public schoolbuses—in these very same four districts—for the following year, when additional thousands of children were being hauled against their will across cities and counties.

Now, Mr. President, let me emphasize: the statistics I am about to relate cover only four of the school districts in my State. There are 151 school administrative units in North Carolina.

Prior to the imposition of forced busing, the schoolbuses of these four districts consumed 943,463 gallons of gasoline.

The year after forced busing was imposed, Mr. President, the consumption of gasoline by the public school buses in these four districts had increased by 218 percent.

Let me repeat, Mr. President: The increase was 218 percent—for a nonessential, undesirable and often destructive exercise in futility by Federal bureaucrats, or Federal judges, or a combination of the two.

This 218 percent increase, Mr. President, represents a virtual waste of 1,118,908 gallons of gasoline in 1 year—and in just four school districts of my State. Projected estimates for my entire State, Mr. President, set the total of this nonessential use of gasoline as high as 30 million gallons a year.

Senators can project this waste on a national basis to suit themselves. Any project is bound to disclose an enormous waste of gasoline.

If we in this Senate are really serious, Mr. President, about our often proclaimed desire to relieve the energy crisis, the simple arithmetic of my amendment demonstrates that my proposal is sound, that it can have almost immediate application upon enactment, and that there will be wholesome benefits to the children of this country.

Let no Senator suppose that the farmers of America, who will be sorely needing every gallon of gasoline they can get to operate their tractors and other equipment, will not be bitterly resentful if they are deprived of badly needed gasoline in order that their children may continue to be subjected to compulsory busing to some distant school.

Yes, sir, Mr. President, the farmer is watching this Senate on this vote. The workingman is watching this Senate. The mothers of America are watching this Senate.

Now, Mr. President, a distressing report reached me over the weekend—a report which I refuse to believe until I see it happen. I have been told that a plan was agreed upon at a caucus of Senators from the other side of the aisle to kill my amendment by tabling it. I have been told that some Senators do not want my amendment to come to a vote.

I repeat, Mr. President, I cannot believe this report. I just do not believe Senators are afraid to face up to the question raised by my amendment. And I shall not believe it unless and until I see it happen. Surely, Mr. President, my amendment is not a partisan issue. Surely, Mr. President, there will not be an effort to table this question.

But in the event that it should happen, Mr. President, let the record be clear, so that everyone can understand where each Senator stood.

In the event, Mr. President, that there is indeed a motion to table, I shall call for a rollcall.

And then, let no one misunderstand what will be disclosed.

Senators who vote to table my amendment will be voting to continue to waste gasoline—enormous amounts of gasoline, millions of gallons of gasoline—on compulsory, nonessential, undesirable busing of little children.

And Senators who vote against tabling my amendment will be saying: "I'm willing to stand up and be counted."

I would reiterate, Mr. President, that I cannot believe that there will be an effort to table my amendment. But if there is such an effort, the record will be nonetheless clear.

In the interest of time, I have attempted to anticipate objections that may be raised concerning my amendment. And I have prepared a response to each such objection that came to mind. Let me quickly run down the list:

LIST OF OBJECTIONS

OBJECTION

The Helms amendment is an "extraneous amendment" that has nothing to do with solving the energy crisis.

ANSWER

On the contrary, the Helms amendment proposes exactly the same sort of energy conservation measures as S. 2589 proposes. In the very same section, Section 203, S. 2589 calls upon the President to implement transportation control plans. Now I don't know what a transportation control plan is. It sounds to me as though measures would be taken to restrict transportation. My amendment merely makes it clear that such transportation control plans would include restricting the unnecessary transportation of school children in buses. I don't see how this is extraneous at all.

A little farther down, I see the bill proposes another measure capable of reducing energy consumption. It reads as follows: "limitations on operating hours of commercial establishments and public service, such as schools." My amendment also deals with schools. If we are going to have to close schools, as the committee bill requires, whether for part of the day or for whole days at a time, I believe that it is appropriate to take less stringent measures which might allow the schools to stay open. What is more important, to bus children extravagant distances to schools that have to close early in order to save on heating fuel, or to keep the schools open and let the children walk? I think it is ridiculous to keep busing plans in effect, but to close the schools.

Moreover, as I have pointed out, the saving in gasoline by cutting back on busing is enormous. In my home town of Raleigh, they are using eight times more gasoline since compulsory busing was introduced.

OBJECTION

The Helms amendment is "not an act of responsibility."

ANSWER

I assumed that this bill was introduced only because we are in a drastic situation of emergency. Indeed, the findings of the bill say that fuel shortages "have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services." I believe that it is responsible to address the problem of the curtailment of vital public services. That is the issue which my amendment addresses.

I read in the next paragraph of the findings that these shortages "jeopardize the normal flow of interstate and foreign commerce and constitute a nationwide energy emergency which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government." And a little bit later on, Congress determines that these disruptions "pose a serious risk to national security, economic well-being, and health and welfare of the American people."

The distinguished Senator from Washington evidently supports these findings. We are in an emergency situation. We must act wherever we can. I note that the distinguished Senator has moved with dispatch. Hearings were called on this bill with scarcely twenty-four hours' notice. The mark-up on the bill was uncommonly swift. It was brought to the Floor on Wednesday of last week at the same moment that copies of the bill and the report became generally available. I know that the chairman felt that this speed was the responsible reaction to an emergency situation.

Now this bill proposes many drastic solutions to the emergency situation we are in. It is an understatement to say that no one really knows how these solutions will work out. My amendment, however, is far less drastic. It merely suggests a return to the status quo ante. We know what the situation was before compulsory busing was introduced. We know that the neighborhood school system was an efficient and effective method of education. We also know what happened to school bus gasoline consumption when massive busing was introduced. I think that the responsible thing to do in an emergency situation is to stop waste and go back to proven methods.

OBJECTION

The Helms amendment is unconstitutional.

ANSWER

This is a topic which I touched upon in my remarks last Wednesday. First, I think that it may be said that nobody has a constitutional right to be bused to a certain school under a certain plan. The U.S. Supreme Court has never approved the use of racial percentages as an end in itself. What the Supreme Court said, and I am quoting from the *Swann* v. *Charlotte/Mecklenburg County Board of Education* case, was that "the use made of mathematical ratios was no more than a starting point in the process of shaping a remedy."

At the time when these decision were made, the fuel shortage was not a factor in choosing from the available remedies. Compulsory busing was a tool available to carry out the court's order. But widespread busing is no longer available, because of the fuel shortage. The courts will simply have to choose from the remedies which are available today. I am sure that the courts will be guided by the U.S. Supreme Court when that court said, in *Swann:* The reconciliation of competing values in a desegregation case is, of course, a difficult task with many sensitive facets but fundamentally no more so than remedial measures courts of equity have traditionally employed.

My amendment in itself would not be responsible for restricting gasoline available to school buses. The shortage of gasoline is a circumstance which has come about through outside forces. When there is a shortage you can only fill the top priorities. Under my amendment, the President would simply recognize that unnecessary busing is a waste and must be given a low priority. We must be frank in admitting that widespread busing is no longer available as a remedy to work the court's will; its non-availability has come about through circumstance.

Mr. HELMS. Mr. President, I have received countless expressions of support for my amendment. These have come from all over the country. Typical of these expressions is one received from Hon. George C. Wallace, Governor of Alabama. I ask unanimous consent that the text of Governor Wallace's telegram be printed in the RECORD.

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

MONTGOMERY, ALA., *November 15, 1973.*

Hon. JESSE HELMS,
U.S. Senator, Dirksen Building, Washington, D.C.

DEAR SENATOR HELMS: I would like to congratulate you on your amendment 658 to S. 2589 which would conserve fuel in this time of energy crisis by limiting the public transportation of schoolchildren to the school nearest their homes. Many school systems in Alabama are experiencing extreme difficulty in obtaining sufficient fuel to transport schoolchildren to their presently assigned schools. Unless they are allowed to attend the school nearest their home, many schoolchildren in our State and other States face the probability of being denied the continuance of a public school education solely because of a lack of fuel to transport them.

You are proposing a practical and workable approach which will be of material help in meeting the energy crisis and could render more drastic measures unnecessary.

With best wishes, I am

Sincerely yours,

GEORGE C. WALLACE,
Governor of Alabama.

Mr. HELMS. Also, Mr. President, I would call my colleagues' attention to a newspaper article published Friday, November 16, in the Washington Post. This article points out that the school buses in Prince Georges County, Md., are consuming an enormous amount of additional gasoline as a result of forced busing. The Federal court order affecting that county, Mr. President, is responsible for the wasting of 750,000 gallons of gasoline per year, if I understand the situation correctly. Of course, Mr. President, I cannot vouch for anything I read in the Washington Post, but based on my findings as they relate to school districts in my own State, the Washington Post's report concerning Prince Georges County appears to be in line with what I know to be the situation in North Carolina.

In any event, Mr. President. I ask unanimous consent that the aforementioned article from the Washington Post be printed in the RECORD for the information of my colleagues.

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

COUNTY TO REQUEST PUPIL BUSING CURB

Prince George's County Executive William W. Gullett has asked federal District Judge Frank A. Kaufman not to order any further busing of school children in the county in order to conserve the fuel that would be burned by the buses.

Gullett said in a letter to Kaufman yesterday that the county must purchase 750,000 gallons of gasoline this fiscal year for the 3½ million additional miles of travel required by Kaufman's decision last year to order large-scale busing for racial balance in the county.

School public relations officer Robert Litman said that on Sept. 28, 1972, before Kaufman's order took effect, the county bused 78,364 children, or 48.5 per cent of the school population. Today, Litman said, the county buses 89,900 students, or 58.3 per cent of the total.

"We're more concerned about fuel oil to heat our buildings than we are about gas to run the buses," Litman said.

Gullett aide Jay F. Morris said the executive also asked the county attorney to determine whether the change in the oil situation constitutes a legal basis for rearguing the busing decision.

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

Mr. JAVITS. Mr. President, will the Senator yield me a minute or two in opposition to this amendment?

Mr. JACKSON. I yield.

Mr. JAVITS. Mr. President, the real problem with this amendment—and perhaps the Senator would define its limitations—it seems to me, is that it puts in jeopardy the whole problem of bus transportation in aid of desegregation plans.

We have been extremely fortunate in having a time of quietude respecting the whole civil rights struggle, which involves equal opportunity for education. It has been good for the country. Lord knows, we have enough to upset America. Now, though the end of saving fuel is eminently desirable, it seems to me, in the interests of the country's tranquillity, that it would be most unwise to make this regressive step rather than to limit pleasure driving, for example.

This is really striking at a very key element in what has become a relatively tranquil situation. It is like people sitting in a tight place in a train or a bus—you gradually get your way into it, and you are kind of comfortable. It is the same with the American people on the busing question, which was so very hotly debated.

I speak as the ranking member of the Committee on Labor and Public Welfare, which handles education. We have been up and down the hill in this battle for years now, and it seems to me that to make this kind of move at this time, under the element of saving fuel, when there are so many other areas in which fuel could be saved by the American people, far beyond even the need to save it without the very real social danger which is involved here, makes it most inadvisable.

I hope very much that the Senate will agree to the motion to table, which I understand will be made—or if it is not made by anyone else, I will make it—respecting this amendment.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. At what point will a motion to table this amendment be in order?

The PRESIDING OFFICER. After the time on the amendment has been used or yielded back.

Mr. JAVITS. If the yeas and nays are ordered, that vote would not come until 1 o'clock. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, the distinguished Senator from New York knows of my respect for him and his diligence in all matters.

I would comment in the form of a question. Why keep busing in effect when we are talking about closing schools or limiting the hours of schools?

Furthermore, the Senator mentioned the words "rather than limit pleasure driving." I would suggest that it is not an either/or proposition. We may have to do both, this energy crisis is that serious.

I know that the Senator from New York is sincere, and I trust that he accords me the same sincerity in my position.

I reserve the remainder of my time.

Mr. JAVITS. Mr. President, may I have a minute or two of the opposition's time?

Mr. FANNIN. I yield.

Mr. JAVITS. In answer to the questions, may I say that I base my argument upon the fact that we will inevitably be making certain regulations respecting national priorities. Indeed, the President has the power to do that under this bill; and if the President chooses to exercise that power in respect of school busing, I must take that risk, because we are giving him that authority. But for us to do it is our picking the priority.

I thoroughly respect the sincerity of Senator HELMS. Indeed, I have probably been as ardent an advocate of equal opportunity in education and civil rights generally as any Member of the Senate, and I have always respected the sincerity of our colleagues from the part of the country where this has been part of the social order. I have not used that phrase in years, which shows how the issue has gradually been refined, and much of it has been settled. It was a very much used phrase when the venerated and distinguished Senator Russell of Georgia was carrying the laboring oar for this point of view.

Mr. President, we should not risk the social disorder, the protests, the outrage in a situation which has now, generally speaking, quieted down—certainly very much in the minds of 10 percent of the population. This quieting down may be deceptive; many people think that—that the black community of the United States is by no means satisfied with the way in which its future has gone under the Constitution.

But we are legislators, and we are pragmatic men. My real argument is, "Let well enough alone. Do not stir it up now." Of all times not to stir it up, this is the time not to do so.

I am not arguing the affirmative. I am only arguing the negative. If it is found that this is the way to save fuel and that the risk is closing hospitals or schools, or some other really basic national priority, OK; the President can do it. We will have to live with that. But let us not direct it, which is the purpose of this amendment.

That is the answer to the Senator's question. It is based upon the tranquillity which now exists in the field which at one point in our history, in the middle sixties, threatened revolution in this

country, and I do not want to stir it up again.

Mr. HELMS. Mr. President, no one could disagree with the Senator's hypothesis. But it is hypothetical, after all, and I am persuaded that the Senator from New York badly misreads the sentiments of the vast majority of the American people. Black and white, they are fed up to their teeth with forced busing of their children.

The Senator is absolutely correct. If the situation were as he describes it, it would be well worthy of consideration to evaluate the eloquent statement he has just made, which is so typical of him. However, there have been repeated polls among the blacks of this country which show that 80 percent of the blacks resent their children being hauled across the country, just as is true of the parents of children of other races.

I wish to give an example to which I alluded on Wednesday of last week. Forced busing of schoolchildren has reached the point of absurdity throughout the country, not only in the South but also in States in the Midwest and the North, and other sections of the country. In the Charlotte-Mecklenburg area of my State there is a case which illustrates how far we have gone with this absurdity. There is an instance there of a junior high school student who is hauled 22 miles from his home to school in the morning and 22 miles home in the afternoon, and he is the sole passenger on the bus—one bus, one driver, and one student.

If this Senate is going to stand for absurdities like that, I think the Senate should have its head examined.

As I stated previously, we have examined 3 school districts in my State, 3 out of 151 school districts. We discovered that over 1.1 million gallons of gasoline are wasted each year on forced busing in just those three school districts alone.

If we are really serious about wanting to conserve fuel in this country, this is the way to do it. I have given the Senate the arithmetic of it and I stand by the proposition that parents and children of this Nation really do not want forced busing.

I suppose one could call this my "right to walk" amendment. I think the children have a right to walk to their neighborhood schools. I stand by the proposition that this is a profligacy our Nation can ill afford at this time of a fuel crisis.

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

Mr. FANNIN. Mr. President, will the Senator yield? The Senator from Washington (Mr. JACKSON), who is the chairman and ranking member of the committee, controls the time on the other side. I am not yielding my time because I support the amendment. I ask for a couple of minutes from the distinguished Senator.

Mr. HELMS. I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, we have several decisions to make with respect to the conservation of fuel. Some of them may not appeal to all Members of Congress; in fact, very few of them will.

It is regrettable that it is necessary to bus children across town; and in many instances, as the Senator from North Carolina explained, with few passengers on the bus.

The polls still show, as the Senator from North Carolina explained, that there is great opposition to busing for racial balance.

It is true that this amendment will necessitate some changes, but I stated as we began debate on this legislation that we must recognize that changes—some of them troublesome—will be necessary. But I do not believe that we will be taking any action that is adverse to the best interests of the students. Consequently, I do support the amendment.

Mr. JAVITS. Mr. President, I would like to have a little time in opposition. Will Senator yield to me 2 minutes in opposition

Mr. FANNIN. I am glad to yield to the Senator from New York.

Mr. JAVITS. Mr. President, for a long time the effort was to break the back of school desegregation through prohibiting busing. I was right in the middle of that debate as the ranking minority member of the Committee on Labor and Public Welfare when under the rubric of neighborhood schools, and now it is economy in gasoline—and we will find others—efforts were made to break down the requirements of the courts.

There is no question of racial balance being involved because we prohibited busing for racial balance. The only busing we are talking about is court-ordered busing or pursuant to a plan agreed on with HEW to carry out the mandate of the Constitution. It is significant that even in the wording of this amendment the whole ball game is given away on page 2, lines 1 and 2, where we find the language "transported through public means of conveyance no further than to the appropriate school nearest their residences." That is the old neighborhood school concept which the courts struck down when it was the segregated school concept.

It was pointed out, and this is really going back to ancient history, that children in the South and other parts of the country were being bussed 20 and 30 years ago before the decision in Brown against the Board of Education, passing white school after white school on the way to get to a black school.

Now, the matter is to be played in reverse under the cover of our shortage of gasoline. If that is the reason for it the President can do it, but the social disorder which will result from regressing to a system of segregation, aided by busing or not busing, which has been present in this country for years, for decades, is something we simply cannot and should not accept.

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

Mr. JAVITS. Mr. President, would the Senator yield to me for 1 additional minute?

Mr. HASKELL. I yield to the Senator from New York.

Mr. JAVITS. As to the black families who do not want their childred bused, certainly no one want his children bused. But the question is would they rather have their children bused and get a decent education, or not bused and get a second-class education. That has been dealt with by the Supreme Court. There have been many arguments and cases about these facts which the Senator from North Carolina gave us for this very reason. The question was not and/or question—just "do you like your children bused?" Of course, they do not; no one does. They have long experience with busing, but that is no reason why, in the interest of the Nation, we should throw out what took so long to get recognition of, and that is what this amendment would do.

I say to the constitutionalists that this would cancel out in one amendment of a few lines every court decree based on school desegregation which deals with the busing question as an aid to enforcing the law.

What is the busing clout? It is only to make them obey the law. It is done to obey the law. Yet we would throw it out because we, not the President, decide the places where we are going to save on gas. It is most improvident, and I hope the Senate will reject it.

Mr. HASKELL. Mr. President, I yield myself 1 minute in opposition.

Mr. HELMS. Mr. President, will the Senator yield to me for the purpose of getting the yeas and nays ordered?

Mr. HASKELL. Certainly.

Mr. President, a parliamentary inquiry. Is that in order under the unanimous-consent request?

The PRESIDING OFFICER. Under the order, the yeas and the nays will not occur until 1 p.m.

Mr. HASKELL. I yield.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. HASKELL. I yield.

Mr. JAVITS. May I address a question to the Senator from Arizona (Mr. FANNIN)? Do I understand the minority is now prepared to accept amendment No. 653, which I propose?

Mr. FANNIN. That is correct.

Mr. JAVITS. Very well. I will do that when we are through. I thank the Senator very much.

Mr. HASKELL. Mr. President, I yield myself 1 minute in behalf of the opposition. I oppose, and I think I do so also on behalf of the floor manager of the bill, the Senator from Washington, the pending amendment. My opposition to the amendment is based primarily on the proportion that it is not germane to the emergency situation. I happen to feel that forced busing is counterproductive; that it does not improve racial relations, but rather that it has the opposite effect. But I think the Senator from New York is quite correct in his opposition to the amendment when he says that this is not the time or place for such an explosive issue. Therefore, I hope, when the motion to table is made, the Senate will table the amendment.

Mr. HELMS. Mr. President, first, in response to my friend the distinguished Senator from New York, I would reiter-

ate, as to his suggestion of unconstitutionality, what I have already said. I touched on it this morning. I touched on it last Wednesday.

First, I think that it may be said that nobody has a constitutional right to be bused to a certain school under a certain plan. The U.S. Supreme Court has never approved the use of racial percentages as an end in itself. What the Supreme Court said, and I am quoting from the Swann versus Charlotte-Mecklenburg County Board of Education case, was that "the use made of mathematical ratios was no more than a starting point in the process of shaping a remedy."

At the time when these decisions were made, the fuel shortage was not a factor in choosing from the available remedies. Compulsory busing was a tool available to carry out the Court's order. But widespread busing is no longer available because of the fuel shortage. The courts will simply have to choose from the remedies which are available today. I am sure that the courts will be guided by the U.S. Supreme Court when that Court said, in Swann:

> The reconciliation of competing values in a desegregation case is, of course, a difficult task with many sensitive facets but fundamentally no more so than remedial measures courts of equity have traditionally employed.

Let me emphasize again, my amendment in itself would not be responsible for restricting gasoline available to school buses. The shortage of gasoline is a circumstance which has come about through outside forces. When there is a shortage, you can only fill the top priorities. Under my amendment, the President would simply recognize that unnecessary busing is a waste and must at best be given a low priority. We must be frank in admitting that widespread busing is no longer available as a remedy to work the court's will; its nonavailability has come about through the circumstances of fuel shortage.

As to the comments by my distinguished friend from Colorado, I do not know how any issue could be more germane than the arithmetical total of how much gasoline is being wasted in the United States this very day for the purpose of hauling students who do not want to be hauled across cities and counties. It has been estimated that 30 million gallons a year of gasoline are being wasted each year in my State alone, that we know of. You can project that any way you want, but it still comes to an arithmetical fact.

I would hope that the Senate, on this question, would face up to the amendment itself, and not through the device of a tabling motion, because we have a germane amendment before us and it would be logical to vote on the amendment itself. I do hope Senators will at least and at least face up to an issue that has already been delayed in the committee, and not try to avoid this issue through the process of a tabling motion.

I reserve the remainder of my time.

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

Mr. HELMS. I am happy to yield my friend from Tennessee 2 minutes.

The PRESIDING OFFICER (Mr. HATHAWAY). The Senator from Tennessee is recognized for 2 minutes.

Mr. BROCK. Mr. President, the Senator has eloquently spoken to his own amendment. I am a cosponsor of this amendment for a very simple reason. busing. We have won some and some we have lost, but the fact remains it still continues. This amendment does not really deal with the basic, fundamental question; it simply says that in the allocation of our limited resources at this point in time, those resources shall not be allocated on a priority basis for the compulsion of racial balance.

As the Senator from North Carolina has said, I cannot for the life of me understand why anybody would oppose this kind of amendment. It is certainly germane for us to say where the priorities lie, and it is incredible for me to believe that anyone would consider compulsion as a priority when we are faced with this problem. There are so many reasons why children have been damaged by this process. We do not need to get into that. We are simply talking about allocation of resources.

It seems to me we should face this question by a vote on the amendment of the Senator from North Carolina, and do it directly and forthrightly. This question has been before the Senate time and time again. It has refused to face it. We cannot get the measure before the Senate for a vote. The Senate has not been able to get the constitutional amendment before it, and it has been in the committee for 2 years.

Now it seems to me we have a chance to show a little bit of character and responsiveness to the American people at least in the sense of saying we shall not place a priority on compulsion through busing for the purpose of this device, whether it be racial balance or some other reason.

I am glad the Senator from North Carolina has offered the amendment. It at least gives us a chance to face our constituents on this and offer a response to their pleas for assistance on this question.

Mr. CANNON. Mr. President, will the Senator from Colorado yield to me very briefly?

Mr. HASKELL. I yield.

SALARY INCREASES FOR MEMBERS OF THE POLICE FORCE OF THE LIBRARY OF CONGRESS

Mr. CANNON. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 10840.

The Chair laid before the Senate H.R. 10840, to amend the Act of August 4, 1950 (64 Stat. 411), to provide salary increases for members of the police force of the Library of Congress, which was read twice by title.

Mr. CANNON. Mr. President, the Senate has passed a similar bill. We are willing to accept the House bill. I ask that the bill be accepted.

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill was ordered to be read a third time, was read the third time and passed.

Mr. CANNON. Mr. President, I thank the Senator for yielding to me.

NATIONAL ENERGY EMERGENCY ACT OF 1973

The Senate resumed the consideration of the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. HASKELL. Mr. President, I am sorry. I did not hear the Chair.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. HELMS. Mr. President, I yield to the Senator from Wyoming such time as he may require.

Mr. HASKELL. Mr. President, I yield to the Senator from New York.

The PRESIDING OFFICER. How much time does the Senator from North Carolina yield to the Senator from Wyoming?

Mr. HELMS. As much time as he requires.

Mr. HANSEN. Mr. President, I would like 1 minute. I thank my distinguished colleague from North Carolina.

It is my intention to support this amendment. I think we do have to establish some priorities. It seems clear to me that this is an area where a significant amount of fuel could be saved.

And I have in mind also the impressive statistics presented by the distinguished Senator from North Carolina in that the Americans without regard to color or background or religious beliefs or any other criteria as far as I know have indicated clearly that they do not favor forced busing for purposes of achieving racial integration. And with that thought in mind, it would be my intention to support the amendment of the distinguished Senator from North Carolina.

Mr. JAVITS. Mr. President, is there any further time in opposition?

The PRESIDING OFFICER. Nine minutes remain in opposition.

Mr. JAVITS. Mr. President, will the Senator from Colorado yield me 2 minutes?

Mr. HASKELL. Mr. President, I yield 2 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, I had understood that a motion would be made to table the amendment, and that the motion would be made by the Senator from Washington. I will be perfectly happy to make the motion when the time expires.

Mr. JACKSON. Mr. President, I did not understand the Senator.

Mr. JAVITS. Mr. President, I had understood that the manager of the bill would move to table the amendment. However, I would be glad to make the motion if the manager of the bill wishes me to.

Mr. JACKSON. That would be all right, if the Senator wishes to make it.

Mr. JAVITS. It would be more appropriate if the manager of the bill were to make it.

Mr. JACKSON. It would be all right with me if the Senator were to make it.

Mr. JAVITS. Mr. President, I think that the Senator from Washington should make it.

Mr. JACKSON. The Senator from North Carolina has asked for a vote up or down on the amendment. If he wants it that way, I will not object.

Mr. JAVITS. Except for this fact, if the Senator would yield me the time, that the motion up or down does not raise the issue of whether we want to tack this particular amendment on this particular bill. And that is, I think, an important issue to raise. Therefore I shall move at the appropriate time to table the amendment. And if my motion fails, I shall move to amend the amendment. And I wish to inform the Senate that I will move to amend. Am I correct in understanding that there would then be no debate on the amendment to the amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, I shall move to insert the words, after the word "residence" in this amendment, which appears at the end of the amendment, the words "except where constitutionally required."

The purpose of that amendment to the amendment would be to save the orders of the court which have already been entered and future orders which may be entered in connection with the constitutional right to an equal opportunity for education.

Mr. President, I do not want to go over these amendments again. However, I deeply believe that it would be most improvident to abort the process of Presidential determination respecting priorities which would be involved, especially after the Congress had tried to pass on these authorities if Congress promulgates the risk of the tremendous unsettlement, to say the least, which would arise if we tried to invalidate by this rather neat amendment under the cover of an energy crisis, the action of the court and local educational districts and communities which have been fought over for literally at least 19 years, since the Brown case.

I think it would be most improvident to do so. Hence, I feel it my duty to raise both issues by the motion to table—whether we want to have this in this bill at all and by the motion to amend whether we intend to throw out the enormous labors of the courts and communities on this very vexing question.

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

Mr. JAVITS. Mr. President, may I have 2 additional minutes?

Mr. JACKSON. Mr. President, I yield 2 additional minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 additional minutes.

Mr. JAVITS. Mr. President, may I point out finally that there is no question of racial imbalance. It is prohibited by law. And we passed that provision a number of times. It is the law today in a number of bills, including the Higher Education Act.

Further, there is no question of quotas. Therefore, the citation from the Mecklenburg case respecting the quotas is not germane to this debate because there is no question of how or when the courts could decide on busing. The question is on eliminating it on the ground of the energy shortage. We should leave that priority to the President, along with the other priorities, and not leave that particular question of eliminating what has been fought over for so long to the Congress.

Mr. BARTLETT. Mr. President, would the Senator yield me 2 minutes?

Mr. HELMS. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 2 minutes.

Mr. BARTLETT. Mr. President, I would like to point out that Oklahoma City is a city according to the last population census of 366,600 inhabitants. The Oklahoma City School District either owns or leases 295 buses. These 295 buses use 3,600 gallons of gasoline daily. Dr. Lillard, the superintendent of schools, estimates that 55 percent of the gasoline used goes for mandatory crosstown busing. This means that the Oklahoma City School District uses 1,980 gallons of gasoline daily, or 350,460 gallons of gasoline annually for the purpose of transporting students to crosstown schools.

I cite those figures, Mr. President, to show the large amount of gasoline used for busing.

Mr. THURMOND. Mr. President, it is my pleasure to rise in support of the amendment offered by my distinguished colleague from North Carolina. There is no question that extensive busing of schoolchildren solely to achieve a racial balance consumes an enormous amount of fuel. Forced busing, which is so obviously unpopular with the vast majority of American citizens—both black and white—becomes even more absurd in view of the very grave energy crisis now facing our country.

I urge all of my colleagues to join in bipartisan support of this very necessary and practical amendment, and I was pleased to join the able Senator from North Carolina in sponsoring it.

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

The PRESIDING OFFICER. The Senator from North Carolina has 1 minute remaining.

Mr. HELMS. Mr. President, if the Senator from Colorado is willing to yield back the remainder of his time, I will yield back the remainder of my time.

Mr. HASKELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. Did the Senator from New York make a motion to table?

The PRESIDING OFFICER. The Senator from New York has not made a motion to table.

Mr. JAVITS. Mr. President, has all time expired?

The PRESIDING OFFICER. The time has not expired.

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

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

The PRESIDING OFFICER. All the time has expired.

Mr. JAVITS. Mr. President, I move to table the amendment of the Senator from North Carolina and I ask the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? (Putting the question.) There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the question will have to be voted on at 1 o'clock.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, should the motion be rejected, would an amendment to the amendment be in order without debate?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 653

Mr. JAVITS. Mr. President, if the Senator will yield further, I suggest that by unanimous consent we can dispose of amendment No. 653.

Will the manager of the bill yield to me?

Mr. JACKSON. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that the vote may now occur on amendment No. 653, which I raised before.

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

The question is on agreeing to amendment No. 653 offered by the Senator from New York (putting the question).

The amendment was agreed to.

AMENDMENT NO. 678

Mr. JACKSON. Mr. President, I ask unanimous consent that, despite the previous unanimous-consent order, it be in order to consider the Ribicoff amendment at the present time.

The PRESIDING OFFICER. Without any prejudice to priorities?

Mr. JACKSON. Without any prejudice to priorities.

The PRESIDING OFFICER. Is there a time limitation?

Mr. JACKSON. A time limitation of 2 minutes.

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

The clerk will report the amendment.

The legislative clerk read as follows:

On page 29, after line 20, insert the following new section:

SEC. 308. OFFICE OF EMERGENCY FUEL ALLOCATION.—The President shall establish a special office to receive complaints and emer-

gency requests from officers of State and local governmental units who cannot obtain adequate supplies of gasoline or fuel oil. The office shall be authorized to act upon requests from appropriate State and local officers in situations where communities are threatened with the disruption of public services such as health, education, police, fire, and sanitation. The office shall be empowered to order that adequate gasoline and fuel oil supplies be immediately made available to these communities upon its determination that such supplies are needed.

Mr. RIBICOFF. Mr. President, the amendment I call up today to the National Energy Emergency Act of 1973 is designed to insure that cities and towns in every State will be able to get enough gasoline and fuel oil to provide essential services to their citizens. This is intended to keep schools, hospitals, and nursing homes warm this winter, and fire, police, sanitation, ambulance, and other emergency vehicles running.

No allocation or conservation program, no matter how skillfully constructed, will be able to take care of all the emergency situations which will inevitably arise when town councils, city managers, or mayors are unable to obtain heating oil or gasoline.

New England in particular is being warned of severe fuel shortages. People must be reassured that in such a situation they can expect their children at school will not be cold or those lying ill in hospitals will be warm. Already many cities, towns, and counties are finding it difficult to secure dependable sources of fuel for their municipal vehicles and buildings.

My amendment is similar to the one I introduced to S. 1570, the Emergency Petroleum Act of 1973. This amendment was approved by the Senate by a vote of 56 to 0. It creates a new Office of Emergency Fuel Allocation to assist State, municipal and county officials who cannot obtain enough fuel to provide essential services to their communities.

Every Senator already has his own share of horror stories created by the current fuel shortages in his State. One of my most recent instances concerned the town of Plainfield, Conn. The mayor of Plainfield sent me the following telegram:

Imminent gas emergency exists in the Town of Plainfield. 15 vehicles including police vehicles now operating on supply in ground tanks only. Supplier unable to deliver since October 25. Request immediate assistance in securing procedure for uninterrupted supply to insure health and safety of townspeople. Problem to be seriously compounded during winter months unless continuous supply guaranteed.

Fortunately, a temporary solution was found to this problem before the police cars in Plainfield stopped running. But we will undoubtedly see this situation magnified hundreds and even thousands of times across the country unless practical steps are taken now to prevent future occurrences.

Clearly there has to be some unit established to take care of these situations with an emphasis on speed and simplicity.

My amendment calls for the establishment of a special office to receive complaints from State and municipal officials whose governmental units cannot obtain sufficient supplies of gasoline or fuel oil.

Where communities are thus threatened with the disruption of essential public services, this office will be empowered to order that adequate fuel supplies be made available.

No matter what the reasons are for the present shortages, we simply cannot permit schools and hospitals to go without heat, and ambulances and firetrucks to have empty gas tanks. This office should be able to bypass the inevitable redtape and bureaucratic delays which the implementation of any overall allocation or rationing programs will inevitably produce.

I am particularly pleased that the distinguished chairman of the Interior Committee has indicated to me his support of my amendment. His leadership and guidance in all facets of the energy crisis is worthy of the highest commendation, and I know that the entire Nation owes him a debt of gratitude for his efforts.

I urge all of my colleagues to support this much needed amendment, which will be of great benefit to the people of the cities and towns in their own States.

Mr. JACKSON. Mr. President, if the Senator will yield, the Senator from Arizona has suggested a modification as follows:

On line 4, page 2 of the amendment, after the word "that" insert the following: "priority be given to provide that . . ." so that that sentence would read:

The office shall be empowered to order that priority be given to provide that adequate gasoline and fuel oil supplies be immediately made available to these communities upon its determination that such supplies are needed.

Mr. FANNIN. Mr. President, I support the distinguished Senator from Washington on the modification.

Mr. RIBICOFF. I am agreeable to that.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. JACKSON. Mr. President, I support the amendment. I think it is a good amendment, and very helpful, and I trust the Senate will approve it.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendment be voted upon after 1 o'clock under the previous order, and that it be in order to order the yeas and nays on the Ribicoff amendment at that time or at any time prior thereto.

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

Pursuant to the previous order, the Senator from Wyoming (Mr. HANSEN) is recognized to call up his amendment, on which there is a 20-minute time limitation.

Mr. FANNIN. Mr. President, will the Senator yield for a unanimous-consent request; without it being charged against his time?

Mr. HANSEN. I yield.

Mr. FANNIN. Mr. President, on behalf of the Senator from Oklahoma (Mr. BELLMON) I ask unanimous consent that, following the disposition of the Bayh amendment today, he be recognized for 10 minutes on each of two amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FANNIN. I thank the Senator.

AMENDMENT NO. 682 (AS MODIFIED)

Mr. HANSEN. Mr. President, I call up my amendment No. 682, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 26, line 10, insert the following words after "leasing:", "but exclusive of oil shale." and strike the remainder of lines 10 through 12.

Mr. HANSEN. Mr. President, the effect of my amendment would be to subject Federal lease sales of energy resources to the same streamlined NEPA requirements as all other sections included in the bill.

What the amendment does not do is to exempt any lease sale from the full-blown NEPA requirements which take place beyond 1 year after enactment. What my amendment does not do is to repeal NEPA. What my amendment does not do is to remove from existing environmental regulations drilling and other developmental activities which take place pursuant to lease sales conducted within the next year. All such drilling and developmental activities will be subject to existing law and regulations designed to protect the environment.

Let me say, however, that this amendment is necessary. It will save time in the start-up of new Federal actions designed to increase domestic energy supplies.

As many of us have argued for several years, unless we increase energy supplies, all we will be able to do is to spread shortages around.

Thus, this amendment, offered in a bipartisan spirit, with the support of the administration, will indeed help to increase domestic energy supplies.

I might observe that this amendment was before the full Committee on Interior and Insular Affairs and lost on a 7-to-7 tie vote.

I would also call attention to the fact that the northeastern part of the United States, as I feel certain most people will agree, is likely to feel the most critical diminution in supplies of energy this year. This amendment would do something now to make oil and natural gas available even this winter for those areas of the country that otherwise might be very critically hurt by the energy crisis.

Mr. President, my amendment is a simple one and would restore the original intent of section 206 to all Federal actions intended to increase available domestic petroleum supplies listed under section 207. Section 206 exempts for 1 year under certain conditions the lengthy environmental impact statement process required by the National Environmental Policy Act.

All Federal actions which section 207 authorizes the President to take to supplement domestic energy supplies for the duration of the emergency are exempt except section (e) which reads:

Order the acceleration of lease sales of energy resources on public lands, subject to existing law, to include, but not limited to, oil and gas leasing onshore and offshore and geothermal energy leasing: Provided, That the exemptions provided for in section 206 shall not be applicable to this subsection 207(e).

My amendment will strike: "Provided, That the exemptions provided for in section 206 shall not be applicable to this subsection 207(e)." That stipulation has the effect of nullifying the section as far as any real "acceleration of lease sales" is concerned.

Section 206 is the only section of this act which addresses itself to emergency measures to increase domestic supply and, in my opinion, the quickest possible way to get new supplies is to drill more oil and gas wells.

One of the most promising areas for such exploration and drilling is off the Atlantic coast, according to the U.S. Geological Survey, and the eastern seaboard is the area most dependent on imported oil.

When the last ship carrying Middle East oil arrives in port probably this week, the effects of the Arab oil cutoff will hit the east coast hardest. Even if Texas and Louisiana oil fields were able to produce the oil, and they are not, the logistics problem alone of getting the oil up here could cause considerable hardship.

And if you think we have problems now, wait until the first real cold spell hits.

Hollis Dole who was Assistant Secretary of the Interior for Mineral Resources and himself a geologist said in 1971, and I quote:

But the relatively comfortable balance we now happen to enjoy between energy supply and demand is, I submit, both ephemeral and illusory, and my concern is that having warned the public of an energy crisis that has not yet materialized, those who did so may now be accused of crying wolf. The wolf was indeed at the door earlier this winter; he has merely gone away for a time. But he will surely be back, and he may well bring the whole pack with him.

And you can bet that the whole wolf pack is now at the door.

This is an emergency bill which in the short run can do little but spread the misery around.

But in taking what action we can now to increase domestic supply—and you can be sure the situation will be with us for several years even should we do everything possible—we can at least say to the American people that we are doing something more than just dividing up the shortage.

If we can amend the National Environmental Policy Act to ease restrictions on sulfur emissions at the very least we can certainly apply the same exemption to section 206(e) as is applied by this act to all other sections of 206(e).

A report on the study now being conducted by the Council on Environmental Quality of whether submerged lands off our Atlantic coast should be opened to exploration for oil and gas will not be completed before next April. Following the report, there will undoubtedly be a decisionmaking process which will take another year or two to be followed by environmental impact statements, more hearings, and so forth, before any lease offering can be made even if the decision should be to go ahead.

There are those who say we should conduct more studies to be sure that there will be no blowouts or any damage to the environment.

But drilling off the Atlantic coast can certainly pose no more hazards than drilling off the Pacific coast, the Alaska coast or in the Gulf of Mexico, or the North Sea, one of the worst weather areas in the world. More than 16,000 wells have already been drilled offshore, and there have been only three major oil spills.

Certainly the States of the Northeast cannot continue to oppose refineries, deepwater ports, powerplants, and offshore drilling if they expect to have the energy to keep warm and to have jobs.

In the period of time it will take to develop our coal resources into clean-burning fuels, find a feasible process of recovering oil from shale and multiply our nuclear power capabilities, there is no other source of fuel for the economy we are committed to other than oil and gas.

And if it is there, as the geologists believe it is, we would better be getting it out as fast as possible.

I would like to be able to tell people when rationing starts and as prices rise, and as factories shut down, that we are trying now to do what we should have done several years ago—develop new supplies.

I would hate to try to explain to them that while we probably have enough oil and gas to get us over the hump until these new energy sources can be developed, they will just have to wait until we go through the same processes we did on the Alaska pipeline. Only after 5 years did the Congress finally bypass further delay to get the pipeline started. And there will be no oil from it for another 3 years.

I am just afraid most people will not understand. And I just do not believe they will be satisfied with unemployment compensation, food stamps, and the welfare checks this bill would provide them when their plant closes.

Mr. JACKSON. Mr. President, I am sympathetic to what the able Senator from Wyoming is endeavoring to do. I think it would be a mistake, without hearings, to waive the provisions of the National Environmental Policy Act. Perhaps there is a way in which we can speed up the adjudicatory process; but I would object at the present time to waiving the provisions of the National Environmental Policy Act as it relates to the Outer Continental Shelf. I think that to do that would be a mistake. We have some serious problems in connection with certain areas of the Outer Continental Shelf as they pertain to the adjoining area.

On the other hand, I think it is clear that we should expedite the process by which leases are arranged. We do provide for the expeditious treatment of the Outer Continental Shelf program as it pertains to the provisions of the National Environmental Policy Act.

I mention the importance of the National Environmental Policy Act as it relates to the environmental program in connection with the States. I would hope there would be an orderly procedure upon which to proceed, a procedure which would be handled on the basis of proper hearings and notice, but expedited.

Mr. HASKELL. Mr. President, is it correct to assume that at some point the distinguished Senator from Washington (Mr. JACKSON), the manager of the bill, intends to offer an amendment to delete sections (d)(1) and (2), on pages 25 and 26 of the bill, pertaining to naval petroleum reserves, and to take them up at a later time?

Mr. JACKSON. Yes, it is my intention to move to delete from the bill provision concerning the Elk Hills Petroleum Reserve. The reason is severalfold. The Committee on Armed Services has not considered this proposal.

I spoke with former Representative Vinson on Saturday evening, who celebrated his 90th birthday yesterday. He has strong objections to contemplating such a program and he said he wanted to talk to me about it. I therefore believe that under all circumstances, especially in connection with the dispute regarding the contract the Navy has at the present time with some of the oil companies for the management and related matters at Elk Hills, it would be unwise to include it in the pending measure. So I will move to strike that provision.

Mr. HASKELL. I thank the Senator. May I make one comment. I think the Senator from Wyoming's point is that if NEPA applies, as it does in the bill, to long-term leasing sales on public lands, it should also apply in the case of naval petroleum reserves.

Mr. HANSEN. Mr. President, I should like to say by way of response to the observation made by the Senator from Washington, that if he is to move forward and delete the sections in 207 that deal with making naval petroleum oil available, there is all the more reason to adopt the amendment which I now offer at this time, because part of the shortfall the Senator from Washington has pointed out that could be made up under the bill comes from naval petroleum reserves. So that if the land and the oil from it are not going to be available, that is all the more reason to get on with the job of leasing those lands both within the continental area of the United States and on the Continental Shelf. This is not anything we have not been doing. We have been leasing lands for a long time. I would point out to Senators that we have drilled in excess of 16,000 wells on the Continental Shelf, in the water, and we have had only three serious oil spills from all those wells. The oil pollution that has occurred in the ocean has been contributed to by oil spills from offshore drilling and production only to the extent of 1.5 percent in the year 1972 as compared to about 30 percent that comes from crankcase drainings going into sewers.

So it seems very important to me that we take this step.

I will bet you, Mr. President, that the people in New England are not going to be half so concerned with the environ-

mental statements on an oil well that may be 15 or 20 miles off their coast as they will be from having no heat this winter. I would hope that Senators would consider that fact.

I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I ask unanimous consent to suggest the absence of a quorum and that the time not be taken out of any existing time.

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

Mr. JACKSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. 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. JACKSON. Mr. President, I ask unanimous consent that the Hansen amendment be temporarily laid aside so that the Senator from Arkansas (Mr. McCLELLAN) may be given the opportunity to offer his amendment No. 662 and that there be a 3-minute limitation thereon.

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

AMENDMENT NO. 662

Mr. McCLELLAN. Mr. President, I send to the desk amendment No. 662, cosponsored by a number of Senators whose names appear on the amendment, and ask for its immediate consideration.

I ask unanimous consent that the amendment may be modified as indicated.

The PRESIDING OFFICER. The amendment as modified will be stated.

The legislative clerk read as follows:

SEC. 311. MATERIALS AND FUELS ALLOCATION.—To achieve the purposes of this Act, the President shall take such action as may be necessary to allocate supplies of materials, equipment, and fuels associated with exploration, production, refining, and required transportation of energy supplies to the extent necessary to maintain and increase the production of coal, crude oil, natural gas, and other fuels.

Mr. McCLELLAN. Mr. President, this amendment simply provides that the President shall insure that all equipment and fuels necessary to maintain and increase energy exploration, production, refining, and transportation will be provided to the energy industry.

We will not work our way out of the economic crisis we have entered unless and until we increase our available, reliable energy supplies. The fuel allocation program currently in effect has allowed oil rigs to shut down. Fuel has not been allocated to barges to move other fuel to electric utilities in critical fuel supply positions. I am sure that every Member of the Senate has had called to his attention such misallocations.

My amendment would give a first priority to the energy industry, premised on the fact that the energy industry is the only industry that is more than 100 percent efficient in terms of energy output versus energy input. Every gallon of fuel allocated to energy exploration, production, processing, and transportation results in more than a gallon of fuel for other purposes.

I fear that without this amendment the administrators of our allocation program will allow other fuel uses that are wholly consumptive or less than 100 percent efficient to siphon off supplies which should be allocated on an absolute first priority to a use which will increase our total energy supply, and deliver energy supplies once they are available.

Mr. President, I wish to emphasize the fact that this amendment includes such things as drilling pipe, energy pipelines, refinery construction materials, machinery to operate drilling rigs, and the transportation of personnel necessary to produce, process, and transport energy supplies.

Mr. President, the amendment which I have offered, and cosponsored by the Senators whose names appear on the amendment, is necessary in order for the proper exploration, development, and refinement of oil and gas to continue. I have submitted the amendment to the leadership on both sides of the aisle and I understand there is no objection to it.

I, therefore, trust that the amendment will be agreed to.

Mr. JACKSON. Mr. President, I am pleased to accept the amendment. It is a helpful and clarifying amendment.

Mr. FANNIN. Mr. President, I, too, support the amendment. It will be helpful and should be agreed to.

Mr. McCLELLAN. Mr. President, I thank the distinguished Senators from Washington and Arizona.

Mr. JACKSON. Mr. President, I yield back my time.

Mr. McCLELLAN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Arkansas (No. 662) as modified.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent to suggest the absence of a quorum and that the time not be taken out of either side.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HANSEN. Mr. President, I would like to say that I am willing to further amend amendment No. 682 to exclude the Atlantic coastline from the tip of Florida north, all up along the Atlantic seaboard as far as the State of Maine, and the Continental Shelf area along the State of Alaska. Other Continental Shelf areas have been drilled and subject to lease. I do not want to deny leasing and exploration of those areas.

I would ask my distinguished colleague from Washington if that sort of an amendment would be acceptable to him.

Mr. JACKSON. No, I could not go along with the amendment because we do have NEPA requirements to deal with, especially in Oregon and Washington where we have a very large fishery operation. We have some serious problems in California areas of the Outer Continental Shelf that are highly fragile.

I suggest we have a hearing on this particular point. I have no evidence there is a holdup on the granting of Outer Continental Shelf leases by reason of NEPA.

Mr. President, I am speaking on my own time. I will give the Senator all of my time. Retroactively, may the time be adjusted so that it includes all of my speech and the remarks of the Senator from Wyoming earlier.

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

Mr. JACKSON. The real point at issue here is whether NEPA is holding up the leases. The facts are that in the gulf area there has been no real problem. They have to prepare their environmental impact statement, but it has not held up the program.

What it boils down to is that on the Atlantic coast and in other areas the Bureau of Land Management has not moved expeditiously to get the lease program underway. They argue that it takes 4 or 5 months to finish the impact statements. I think they should take that time to deal with the environmental program. Had they started a year or two ago on this, they would be well along. But the facts are that the national environmental policy requirements have not held up the granting of leases.

In addition, in Alaska we have almost one-half of the potential Outer Continental Shelf areas subject to leasing. This area must be carefully reviewed.

I want to see a leasing program get underway, but I do not want to simply waive the requirements of the National Environmental Policy Act unless and until there is some showing it is really and truly tying up the leasing program.

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

Mr. JACKSON. I yield on my time. Take it all from my time.

Mr. HANSEN. I thank the Senator. There has been delay in the leasing of the public lands. I would point out to my distinguished colleague that under NEPA regulations usually about 3 months are required to prepare and circulate the environmental impact statement. Second, public hearings require another 3 months. So on the average it takes 6 months.

I am sorry the distinguished Senator from Washington would not accept my offer to exclude the Atlantic coastline and the Alaskan coastline, so I will be forced to keep my amendment just as it has been submitted at the desk.

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

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

Mr. HANSEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. JACKSON. Out of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. 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. JACKSON. Mr. President, I ask unanimous consent that the Hansen amendment be temporarily laid aside in order to consider the Hathaway amendment, which we will be able to accept.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I ask that my unprinted amendment which is at the desk be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 26, after line 19, insert the following:

SEC. 209. Development of Additional Electric Power Resources.—Not later than 90 days after the date of enactment of this Act, the President shall promulgate a plan for the development of the hydroelectric power resources of the Nation. Such program shall provide for the expeditious completion of projects already authorized by Congress and for the planning of other projects designed to utilize available hydroelectric power resources, including tidal power.

Mr. HATHAWAY. Mr. President, this amendment requires the President to report on a plan for development of hydroelectric power resources, some of which have been authorized by Congress, and others have not, but have been noted as possible projects for the future.

The President's message on energy does not mention our hydroelectric resources and this amendment covers a gaping hole in his recommendation to Congress.

I understand that both the manager of the bill and the ranking minority member have no objection to the amendment.

Mr. JACKSON. Mr. President, I think this is a helpful amendment. Obviously our hydroelectric resources are very important. We have a number of generators that can be added in the Pacific Northwest that would help to meet the power supply problem in the Northwest. Also we are interconnected with the Southwest so it will be of great help to all the Western part of the United States. There are other areas, the State of Maine included, that have hydroelectric potential, on which we should have the basic information so we can determine whether or not certain programs should be undertaken.

I support the amendment.

Mr. HATHAWAY. I thank the Senator.

Mr. FANNIN. Mr. President, I am pleased to concur with the statement of the Senator from Washington, the manager of the bill. I agree that this amendment is helpful. We should strive in every way possible to develop additional electric power resources.

I am especially pleased with his reference to utilizing available hydroelectric power resources. In many instances across the country hydroelectric projects have not been approved. Many of these decisions should be reconsidered.

I also commend him for including tidal power. That possibility should be thoroughly studied. Whether it can be utilized has not been determined, but we should try in every way possible to explore the possibility.

Mr. HATHAWAY. I thank the Senators from Arizona and Washington.

Mr. President, in conclusion, the amendment would require the President to promulgate a plan, within 90 days of enactment of this act, for the development of the hydroelectric power resources of this Nation. Those resources are vast, according to official estimates of the Federal Power Commission.

The 1972 figures, put out by the FPC, estimate the total conventional hydroelectric power capacity of the United States to be 178.6 million kilowatts, capable of generating an average of 702 billion kilowatt-hours annually. Only about 30 percent of that total has been developed to date.

About 70 percent of our hydroelectric power potential sits undeveloped, as we face the prospect of a winter of heat-less homes, work-less factories and offices, children-less schools, gas-less cars, and light-less streets. That statistic represents an incredible waste of nature's power and a situation which must be remedied.

My amendment further requires that the President provide for the expeditious completion of hydroelectric projects already authorized, as well as for the planning of other projects designed to utilize available hydroelectric power resources, including tidal power.

Among the authorized projects, the Dickey Lincoln School project located in northern Maine would provide much-needed, reliable, and pollution-free power to the Northeastern United States, a region more adversely affected by the present and projected shortage of energy than any other part of the country.

The Dickey project would provide for the comprehensive development of the water and power resources of the St. John River. Electric power will constitute the major benefit from the project, with onsite annual power generation of 1.2 billion kilowatt hours, and additional power benefits will be realized at downstream Canadian powerplants.

The most current Corps of Engineers' estimate of Dickey's cost is about $273 million. To date $2.1 million has been appropriated for preconstruction planning on the project. We must move quickly to complete the project and realize our investment in the vast power potential of the St. John River.

The Passamaquoddy Tidal project started by Franklin Roosevelt in the late 1930's but discontinued because of lack of appropriations has renewed significance because of the energy crisis and because of a comparable operating tidal project in France.

Dickey and Passamaquoddy are but two of many undeveloped hydroelectric resources in this Nation—resources that are both nonpolluting and renewable. The development of our waterpower resource must be a high priority, for it can significantly help offset the power supply deficit we are facing.

Mr. HANSEN. Mr. President, if the Senator from Maine will yield to me briefly, I would like to join in saying I think he has offered a good amendment. I hope it will be adopted. I understand it is agreeable to both sides.

Would the Senator permit me to make a unanimous-consent request?

Mr. HATHAWAY. Mr. President, I am glad to yield for that purpose.

Mr. HANSEN. Mr. President, I ask unanimous consent that it shall be in order for me to request the yeas and nays on my amendment at an appropriate time, when there are enough Senators on the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATHAWAY. I thank the Senator for his comments on my amendment.

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

The amendment was agreed to.

The PRESIDING OFFICER. The Senate will now return to the consideration of the amendment of the Senator from Wyoming (Mr. HANSEN).

Mr. JACKSON. Mr. President, I think we can yield back the remainder of the time.

Mr. HANSEN. Mr. President, I am glad to yield back my time.

Mr. JACKSON. As I understand it, it is in order that the request for the yeas and nays may occur any time between now and the time when the amendment is called up, pursuant to the previous unanimous-consent agreement.

The PRESIDING OFFICER. That is correct, and that the amendment will be put aside until that time.

The Senate will now proceed to the consideration of the amendment of the Senator from Arizona.

Mr. FANNIN. Mr. President, I call up my amendment No. 690 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be read.

The legislative clerk read the amendment, as follows:

On page 25, strike subsection (b) of section 207 and redesignate the succeeding subsections accordingly.

Mr. FANNIN. Mr. President, this amendment deletes the section of the bill which grants authority to the President to require production beyond MER of oilfields on Federal lands.

The administration does not wish to be granted such authority. I do not believe such authority is necessary or wise. In fact, if this authority is granted and exercised, great injustices could result. Re-

quiring production beyond MER would result in a taking of private property prohibited by the Constitution without compensation. Such taking would result in the Federal Government's becoming liable for compensation of uncounted billions of dollars.

Further, it could result in great waste.

In summary, this authority—that is, subsection 207(b)—is not needed. The administration does not wish to be given the authority, as I stated. If it were given the authority and exercised it, the Government would be liable for billions of dollars in judgments against it.

I think we should take into consideration just what is involved. People with expertise in this field have made a judgment regarding the pumping of these wells. Production should proceed on an orderly basis. Production at the maximum efficiency rate yields more oil than if we produced beyond the MER. The oil that is left in the ground as a result of mishandling perhaps could never be recovered.

So I feel that this amendment is necessary and that nothing would be gained if section 207(b) were left in the bill.

Mr. JACKSON. Mr. President, I shall be very brief. This is not a mandatory authority for the President. It simply means that if we find ourselves in an emergency—and I can contemplate a number of examples that I shall come to in a moment—the President will have the authority to go beyond the MER, which means the maximum efficient rate of production—in other words, a temporary surge and stepup.

The President is not obligated to do so unless he, in his judgment, finds it necessary. For example, suppose we were getting a million barrels of oil a day from Canada and there should be a sudden, drastic cutback. I do not think we appreciate that the largest single source of our imports happens to be Canada. The Canadians are finding themselves in a very difficult situation. I could cite other examples where we could have a sudden cutback.

I believe the President ought to have discretionary authority to order a stepup in production of existing oil wells and oilfields in order to meet an immediate emergency.

I emphasize that it is not a mandatory obligation on the part of the President, but I cannot understand why the President should not have this authority, this option, this tool available to him in order to act expeditiously.

Mr. FANNIN. Here we are threatening to disturb the flow of oil from the well by overpumping and by not using good practices.

I feel that the administration would be pressured to exceed the MER if this provision were left in the bill. The administration feels section 207(b) would be almost unworkable.

I hope the distinguished floor manager of the bill will accept this amendment.

Mr. JACKSON. Well, Mr. President, I regret that I cannot accept the amendment. We are in a serious emergency, and I want to make sure that the President has available to him this option. It is discretionary; it is not mandatory.

Mr. FANNIN. I recognize that we are in a serious position as far as the amount of available domestic oil is concerned. Accordingly, I want to protect the amount of oil that we do have available. I certainly do not want to sacrifice it by taking actions that are considered unwise by people who have expertise in this field.

I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I think the amendment by the distinguished Senator from Arizona is a very timely one. If we stop to analyze, as indeed all Americans must, what sort of winter we are facing and what the years are likely to be in the time ahead, we are not looking at an energy crisis that has any indication at all of evaporating in 30 or 60 or 90 days.

People are concerned about employment in this country. I see where David Rockefeller and two Senators, and the distinguished Senator from Wisconsin (Mr. PROXMIRE), are concerned about what a cutoff in energy will do insofar as loss of jobs is concerned. So it makes very good sense not to exceed the maximum efficient rate at which any oil well can be produced.

Why do I say that? I say it because it makes sense that America save every drop of oil she has. And we will not save oil any time we exceed the maximum efficient rate. We are going to waste oil and leave the ground oil that cannot be recovered. I would point out that we do not have any to waste.

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

Mr. JACKSON. Mr. President, do I have any remaining time?

The PRESIDING OFFICER. The Senator from Washington has 2 minutes remaining.

Mr. JACKSON. Mr. President, in response to the statement of my colleague, I point out that the interim report of the National Petroleum Council of July 1973 and the one of November 15, 1973, has said that this can be done. The National Petroleum Council is, of course, an industry group. They say that it can be handled without doing violence to conservation measures.

Mr. President, this is a very interesting report from an industry group.

Mr. FANNIN. Mr. President, at an appropriate time and when we have a sufficient number of Senators on the floor, I would like to ask for the yeas and nays on this amendment if the Senator is agreeable.

Mr. JACKSON. Absolutely. Mr. President, again I ask unanimous consent that it be in order to ask for the yeas and nays at any time from now until the amendments are voted on in sequential order pursuant to the unanimous consent agreement of Friday.

The PRESIDING OFFICER. And that the amendment be set aside in the meantime?

Mr. JACKSON. That is correct.

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

Mr. JACKSON. Mr. President, I ask unanimous consent that my 2 minutes remaining——

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

Mr. JACKSON. Mr. President, I ask unanimous consent, despite the previous unanimous-consent agreement, that the Senator from Oklahoma have 2 minutes.

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

Mr. BARTLETT. Mr. President, I thank the distinguished chairman of the committee very much.

I think it is important to understand what is involved within the MER and the maximum efficient rate of production.

Most petroleum reservoirs consist of gas sand on top, with oil sand in the middle, and water sand on the bottom. When the oil is produced to the point of depletion, there is still a considerable amount of oil left, 20 percent or sometimes higher, in the gas sand. There is a very small amount of oil in the water sand. However, it is less than the minimum level after the depletion of the oil sand.

So, if the oil is produced too rapidly, it is very apt to force the oil into the water sand or into the gas sand and it will be lost forever. It would fill up the other sands after the depletion of the oil sands.

So I think it is most important that we strike this section, because this is a bill designed to create conservation throughout the land in the use of our energy. For us to have as part of this bill a measure designed to waste energy and to cause more energy to be lost forever makes no sense. Certainly we have to use every safeguard and every proper method of producing our energy so that we do conserve it.

The original idea of a regulatory agency and the idea of MER was to adopt conservation measures for the best use of our natural resources.

I for one would strongly urge my colleagues to support this measure and strike the provision which would permit a waste of the energy which it would be possible to produce, but which would be lost forever if this provision were not struck.

Mr. JACKSON. Mr. President, despite the previous unanimous-consent agreement, I ask unanimous consent that an amendment to be offered by the Senator from Texas be in order at this time.

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

Mr. BENTSEN. Mr. President, I thank the Senator for his courtesy in permitting me to offer my amendment at this time. It is an amendment that I think will make a significant contribution to the bill.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 33, between lines 8 and 9 insert a new paragraph as follows:

"The President shall conduct a review of all rulings and regulations issued pursuant to

the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of materials associated with the production of energy supplies and equipment necessary to maintain and increase the production of coal, crude oil and other fuels. The results of this review shall be submitted to the Congress within 30 days of the date of enactment of this Act."

Mr. BENTSEN. Mr. President, the committee has included in this bill section 311, authorizing the President of the United States to take such action as may be necessary to allocate supplies of materials and equipment associated with production of coal, crude oil, and other fuels. I applaud the committee's action.

The shortage of drilling pipe, casing, and other tubular products essential for domestic exploration and production is severe. I have been contacted by many producers who could begin wells tomorrow if they could obtain the necessary supplies. I am aware of one producer who has been trying to find drilling pipe for the last 60 days to drill two wells in Oklahoma in an area where wells are producing 2 million cubic feet of natural gas a day. Mr. President, we need that gas.

During the Korean war, the Department of Commerce, working closely with the Department of the Interior, administered a very effective program to assure immediate deliveries of material to oil and gas producers. These deliveries were made from "set aside" inventories held by private suppliers. This program worked very smoothly and with a minimum of Government involvement. I have written both Commerce Secretary Dent and Interior Secretary Morton and requested that preparations begin at once so that such a program can be reinstituted immediately upon enactment of this bill.

However, my amendment is directed at another aspect of the material and equipment shortage. I have received a number of reports that the 2- to 2.4-percent increase granted for sheet steel on October 1 by the Cost of Living Council has placed oilfield products at a disadvantage in competing for our limited steel capacity. Another price increase for sheet steel is to be effective on January 1. No such increases have been granted for tubular products, and even some steel company officials admit this is having an impact on the production of pipe. In addition to the impact on production, I have received reports of growing exports of tubular products in order to take advantage of world prices higher than those being allowed in the domestic market under cost-of-living guidelines.

Mr. President, I believe that the energy shortage is such that we can ill afford distortions such as these. Indeed, if the administration of controls is contributing to the shortage, then that administration is even having a counterproductive effort on inflation. I am aware of some oil and gas producers presently paying more for used pipe than they would ordinarily pay for new pipe—when they are lucky enough to find used pipe available.

My amendment would require that the President conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if those rulings and regulations are contributing to the shortage. If such regulations are contributing to the unavailability of these products, I believe we would all expect those regulations to be revised.

I am also writing Mr. Dunlop, Director of the Cost of Living Council, requesting that this inquiry begin at once and it not await final passage of this measure. But, a congressionally mandated review to be submitted to us within 30 days will insure my request receives the serious attention it deserves.

I urge the adoption of my amendment and request that the letters to Mr. Dunlop, Secretary Dent, and Secretary Morton be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., November 19, 1973.

Hon. FREDERICK B. DENT,
Secretary, Department of Commerce, Washington, D.C.

DEAR MR. SECRETARY: The Senate expects to complete action today on legislation which includes a provision allowing "the President to allocate supplies of materials associated with production of energy supplies and equipment to the extent necessary to maintain and increase the production of coal, crude oil, and other fuels." Final Congressional approval of this legislation is expected shortly.

There is a critical shortage of tubular products necessary for petroleum exploration and production. I have heard from many producers who are delaying the drilling of new wells and, in some cases, are losing production from old ones, because of the unavailability of tubular products. While overall supplies are tight, there still appears to be substantial amounts of tubular products in inventories. Unfortunately, these conditions have occurred before when steel production reached capacity. During such periods, the Department of Commerce has been instrumental in assuring the availability of drilling supplies to those members of the industry prepared to put them to immediate use.

Acting under the Defense Production Act of 1950 during the Korean war, your Department, working with the Department of the Interior and the Petroleum Administration for Defense, carried out a very effective "set-aside" program for tubular products. Under this program, private suppliers earmarked 5% of the available stock in each warehouse to be used on an immediate needs basis. Orders for drilling pipe were not made until drilling was to begin and tubing for completion was not ordered until production was obtained. This provided the most efficient utilization of available stock but was only possible because delivery was assured. All reports on the program which I have received indicate it provided rapid delivery with a minimum of government involvement.

I understand there is some question as to whether a similar program could be instituted under the existing authority of the Defense Production Act. However, I believe your Department should begin planning now to reinstate a similar program under the new Congressional authority which we expect will receive final approval shortly.

I am not urging the unnecessary involvement of the government in the allocation of steel. However, this program of a "set-aside" by private suppliers has worked in the past, and I believe a similar one could be extremely beneficial again in the effort which must be made to satisfy the nation's energy needs.

Sincerely,

LLOYD BENTSEN.

U.S. SENATE,
Washington, November 19, 1973.

Hon. ROGERS MORTON,
Secretary, Department of the Interior, Washington, D.C.

MY DEAR MR. SECRETARY: The Senate expects to complete action today on legislation which includes a provision allowing "the President to allocate supplies of materials associated with production of energy supplies and equipment to the extent necessary to maintain and increase the production of coal, crude oil, and other fuels." Final Congressional approval of this legislation is expected shortly.

There is a critical shortage of tubular products necessary for petroleum exploration and production. I have heard from many producers who are delaying the drilling of new wells, and in some cases are losing production from old ones, because of the unavailability of tubular products. While overall supplies are tight, there still appears to be substantial amounts of tubular products in inventories. Unfortunately, these conditions have occurred before when steel production reached capacity. During such periods, the Department of Interior has been instrumental in assuring the availability of drilling supplies to those members of the industry prepared to put them to immediate use.

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I am not urging the unnecessary involvement of the government in the allocation of steel. However, this program of a "set-aside" by private suppliers has worked in the past and I believe a similar one could be extremely beneficial again in the effort which must be made to satisfy the Nation's energy needs.

Sincerely,

LLOYD BENTSEN.

U.S. SENATE,
Washington, D.C., November 19, 1973.

Hon. JOHN T. DUNLOP,
Director, Cost of Living Council, Washington, D.C.

DEAR MR. DUNLOP: A critical shortage of tubular products used in the exploration and production of petroleum has developed during the last several months.

It appears that the shortage is due in part to the 13% increase in drilling activity over the last year and a general reduction in excess steel producing capacity. However, in addition to these normal supply and demand factors. I have received reports that the 2 to 2.4% price increase on sheet steel granted by the Cost of Living Council on October 1 of this year has placed oil field products at a disadvantage in competing for what little capacity is available. While sheet steel cannot be produced in a rolled steel plant, it is clearly possible to use a greater portion of the limited supply of scrap steel and other raw materials in activities which are earning

the greatest return. Indeed, with material and labor costs rising, stockholders have every right to expect management to shift the emphasis in production to lines with better price treatment.

In addition, I have received reports of large overseas shipments of tubular products in order to obtain world prices substantially higher than those allowed in domestic markets. The result has been some oil and gas producers are being forced to purchase used pipe at prices in excess of what they usually pay for new pipe.

In view of the importance of increasing domestic production of oil and gas, I request a complete review of all rulings and regulations under the Economic Stabilization Act which could be adversely affecting the production of materials and equipment used in energy production.

Your consideration is most appreciated.

Sincerely,

LLOYD BENTSEN.

Mr. JACKSON. Mr. President, I think this is a useful and helpful amendment. This kind of review could certainly be the kind of thing that should be done in any event. Therefore, the amendment offered by the distinguished Senator from Texas will have our support. It helps in what we are trying to do here.

I am therefore pleased to accept the amendment.

Mr. FANNIN. Mr. President, I support the amendment of the Senator from Texas. I feel that it will be very helpful, as a review is very much in order. I hope the amendment is adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas (putting the question).

The amendment was agreed to.

Mr. FANNIN. Mr. President, I call up amendment No. 691 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. FANNIN. 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:

Add a new section as follows:

SEC. . If the Secretary of Commerce determines that United States flag vessels are not available in sufficient numbers at reasonable rates for the transport of energy-related products in United States domestic trade for the purpose of equitable distribution of fuels pursuant to the requirements of this Act, he may then waive any statutory requirements that such trade be restricted to United States flag vessels.

Mr. FANNIN. Mr. President, the justification for the amendment is, I think, very important because the current shortages of petroleum products in certain areas—particularly the Northeast, that has been heavily dependent on imports—presents a problem of movement of oil among regions that cannot be handled by available pipelines, or other land-based transport system. The remaining alternative is to use ships—for example to move oil from the gulf coast to the Northeast. And this has been discussed continuously in the last few weeks. It is quite a problem.

Unfortunately, there are not enough U.S.-flag ships available to handle the expected requirements. The Jones Act restrictions prohibit the use of foreign-flag ships for purposes such as this expected movement. Authority for an exemption from the Jones Act is necessary during the energy emergency.

The proposed amendment would accomplish this purpose. When Mideast oil supplies are again available, this Nation will want to replenish its stock of petroleum as quickly as possible, and using foreign-flag ships on a temporary basis at that time would be helpful. I trust that the distinguished manager of the bill will be willing to accept this amendment.

Mr. JACKSON. Mr. President, do I correctly understand that this would be an exemption to the Jones Act?

Mr. FANNIN. This would be an exemption to the Jones Act for only the period of the emergency, and it would permit the furnishing of fuel—one example would be the transfer of products from the areas on the Gulf of Mexico, in Texas and Louisiana to the Atlantic coast and other areas that would otherwise be destitute for product.

Mr. JACKSON. May I ask, Did the administration request this, or approve it?

Mr. FANNIN. This is an administration amendment.

Mr. JACKSON. It is an administration request?

Mr. FANNIN. It is an administration request.

Mr. JACKSON. They are asking for a waiver of the Jones Act. Mr. President, this was not brought up in our hearings. I must say that I would not want to move in support of it until I had something back from the Committee on Commerce, within whose jurisdiction it falls.

We do provide in the bill, of course, for the requisitioning of surplus Government vessels for supply and logistical purposes. But I would have to oppose this amendment.

Mr. FANNIN. Mr. President, before the distinguished Senator confirms his opposition to the amendment, I would just like to read the language to him:

If the Secretary of Commerce determines that United States flag vessels are not available in sufficient numbers at reasonable rates for the transport of energy-related products in United States domestic trade for the purpose of equitable distribution of fuels pursuant to the requirements of this Act, he may then waive any statutory requirements that such trade be restricted to United States flag vessels.

I feel that we have discussed this matter indirectly in the hearings. We have heard continuously about the problems we have had with the shortage of supplies on the Atlantic coast, and that we would need to have vessels to carry produce from the areas where it would be available. If the Senator will recall, we even talked about taking some vessels out of mothballs, where that could be done.

Mr. JACKSON. Yes. Of course, we were referring in that discussion to American-flag vessels.

Mr. FANNIN. American vessels that could be taken out of mothballs.

Mr. JACKSON. We are now talking about putting foreign-flag vessels on coastal or intercoastal operations, which is prohibited under the Jones Act, which has been in effect, I think, since about 1920.

Mr. FANNIN. That is correct.

Mr. JACKSON. Mr. President, we may well have to do that. But I would want some hearings, at least some time——

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

Mr. JACKSON. Mr. President, I yield him such time as I may have.

Mr. FANNIN. Senators will understand that this will occur only if the Secretary of Commerce determines that U.S.-flag vessels are not available. So if the ones to come out of mothballs are available, they would be utilized, and this would not curtail that source of shipping.

Mr. JACKSON. If the Commerce Committee would offer this amendment, or state their concurrence I would agree to it. But this involves such a fundamental departure from long-established policy, Mr. President, that I do not see how I could accept the amendment under these circumstances.

I must say I do not necessarily disagree with its intent; I think we may well find ourselves in a position where something such as it proposes will be required, but we will have time to act on the question of using foreign-flag vessels in the coastal trade before they are needed. The biggest problem that we will face, Mr. President, as far as the eastern seaboard is concerned, is how to move the petroleum from the gulf coast from Texas and Louisiana, to the east coast. The east coast has been getting about 70 percent of its petroleum from overseas, and this does pose a serious problem.

My main concern is that there has been no consultation with the Commerce Committee. If that committee would offer the amendment, I would be glad to go along with it, but we have not raised this question with them. We did not have a request at the hearings for it, and I would hope that it could be deferred.

Mr. FANNIN. Mr. President, I certainly understand the feelings of the floor manager of the bill. It is regrettable that we did not have this discussion some time ago. I agree that the Commerce Committee should have a voice in what is done in this regard; but I do know that the Commerce Committee members will have an opportunity to examine the amendment, and with the emergency that exists, I am hopeful that the chairman of the Commerce Committee will support the legislation.

I just want to say to the Senator from Washington that the administration wishes to have this amendment adopted, and so I feel it essential that we have a vote, with the hope that the members of the Commerce Committee will support the legislation, at the proper time I shall ask the floor manager of the bill if he would be willing to ask for the yeas and nays.

Mr. MAGNUSON. This amendment raises serious policy questions which have been a matter of U.S. law since 1789.

We have had laws protecting our transportation industry—air, rail, highway, and water since the founding of this Nation.

This matter cannot be brought up in this context without hearings and careful consideration.

Never in the entire discussion of energy shortages has any mention of a lack of transportation capacity been mentioned. No suggestion has yet been made that sufficient U.S.-flag tonnage does not exist.

Many American flag tankers are now employed in the foreign trades. If they were not so occupied, that tonnage would be laid up.

What has the Maritime Administration of the Department of Commerce said about this effort to shortcut existing legal means to obtain Jones Act waivers?

What evidence has been presented in support of the proposition that a shortage of U.S.-flag tonnage exists?

What administrative procedure safeguards exist to determine shortage of capacity?

What procedure to permit the use of individual vessels?

Protection of U.S. policy which dates back to 1789 demands answers to these questions.

At a time when we are trying to build in protection for the environment such as the Ports and Waterways Act and the application of rigid construction standards for vessels engaged in our coastal trades we cannot open the flood gates to foreign-flag tonnage which are not now covered by such requirements

The trans-Alaska pipeline bill requires that tankers engaged in the domestic commerce of the United States must comply with the more rigid construction standards by July 1, 1974. This accelerates such requirements in order to protect our valuable coastal areas.

Mr. JACKSON. Mr. President, I think we have finished our discussion on this amendment, and I would ask that the amendment be laid aside until such time as a request may be made for the yeas and nays pursuant to the previous unanimous consent agreement.

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

Mr. JACKSON. Mr. President, I ask unanimous consent that notwithstanding the previous order, the able Senator from Texas (Mr. BENTSEN) be recognized to offer an amendment at this time.

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

Mr. BENTSEN. I thank the distinguished Senator from Washington.

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 proceeded to read the amendment.

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

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

Mr. BENTSEN'S amendments as follows:

On page 34, between lines 2 and 3 insert a new Section 314 as follows and re-number all subsequent sections:

"EMERGENCY ENERGY IMPACT STUDY

"SEC. 314(a) The Council of Economic Advisors, in cooperation with other agencies and departments, shall submit an Emergency Economic Impact Report to the Congress. Such report shall include, but not be limited to the following assessments—

(1) Impact of energy shortage on employment loss and job dislocations; on agriculture planting and harvesting, including the impact on food and fiber prices; and on the various industries, factories, and flow of commerce and business.

(2) Impact of energy shortage on public service, including but not limited to hospitals, health care, public safety, and transportation.

(b) The above assessments shall include projections as to the impact on the economy during the first quarter of 1974 as well as the full calendar year.

(c) The report shall also include specific recommendations as to how the problems so identified can be minimized so as to reduce population hardship.

(d) A preliminary report is to be filed not later than thirty days after enactment of this Act and a final report not later than sixty days after enactment."

Mr. BENTSEN. Mr. President, we have heard all sorts of comments and predictions as to how this energy shortage will affect this country, what it will do to jobs, what it will do to inflation, and what it will do to the distribution of our supplies. I think it is time that we have a study made by the Council of Economic Advisers. I think such a study should already have been made, but I am urging that it be done now, and that an immediate report be furnished to Congress, so that we can bring about appropriate legislation to try to take corrective measures. Therefore, this amendment directs the Council of Economic Advisors in cooperation with other departments and agencies to submit a report to the Congress concerning the impact of the energy crisis on the economy of the United States. The admendment requires a preliminary report within 30 days following enactment, and a final report 60 days after enactment.

For the last few months, Mr. President, all of us have read newspaper stories about the disruptions in our standard of living attributed to energy shortages. Lower speed limits, less heat, and gasoline limitations are but a few of these disruptions.

For the near future, there are, however, signs of increasing hardships. A special forecast by the Wharton School of the University of Pennsylvania concludes that—

The 1973 United States economy is now vulnerable to a recession and may quickly succumb to the effects of the growing fuel crunch.

In addition, a report by the National Petroleum Council says that anticipated fuel shortages will cause "an annual loss of $48 billion" from the gross national product in 1974.

If that is correct, what it really would lead to is factories being closed.

What this translates into, Mr. President, is factories will be forced to close; persons without jobs, being forced on unemployment compensation; families unable to pay the bills, transit systems without adequate fuel, brownouts and blackouts because utilities will be unable to produce sufficient electricity.

The list is seemingly endless.

And, without trying to sound like an alarmist, it would seem prudent for the Government to move now to assess the impact of the energy crisis on the economy, to gauge the kinds and types of economic dislocations probable in the months ahead, and to formulate policy recommendations to deal with those dislocations.

I recognize, of course, that various figures exist as to the degree of the energy shortage. Estimates have run from a low of 10 percent to a high of 35 percent shortage. Adding to the uncertainty, I recognize that no agency can predict with accuracy what foreign supplies will do in the future. By necessity then, it would seem to me that the Council would have to work with different intervals of shortages, and make the best judgments possible on the basis of data and projections available.

I think we need to know, at a minimum, will there be a recession because of energy shortages? If so, how severe will it be? And, what can be done to head it off?

We need to know how many persons will be without jobs? What level of unemployment will be reached? Where will those job losses occur? Will an expanded public service program be necessary?

We need to know what will happen to the price of goods and services because of the energy shortage? What will be the impact of the fuel shortage on inflation? How much will prices increase for living essentials—food, clothing, transportation, and shelter?

We need to know also what industries will be affected? And, what can be done to assist those industries and their employees that suffer the brunt of the energy shortage?

It is not difficult to specify other questions in which we need to have data—how for example, will the energy crisis affect hospitals and health care, public schools, agriculture harvest and food costs?

Indeed, I would hope that in the conduct of this study the Council would cast its net as broad as possible.

Regardless, the compelling fact is that hard answers are needed to these difficult questions. Without these kinds of answers, we will continue to meet the energy crisis as a crisis—with short-term measures, without comprehensive policies, and without a clear assurance to the American people that their jobs and families will be safe.

Let us face it, Mr. President, too much of the talk surrounding the energy crisis is that of blame seeking.

The Nixon administration says it sent an energy message to Congress but that Congress did not act. The Congress says that the Nixon administration had all the power and authority it needed under the Economic Stabilization Act to begin emergency measures or start comprehensive energy policy planning but failed to do so because of bureaucratic infighting and the preoccupation of the administration with other matters.

But, Mr. President, a person without a

job because of the energy shortage is not interested in political wrangles over who is to blame. What that person wants to know is what is going to happen to him and his family. Where will another job be found? What kind of assistance can Government provide—after all, he says, "I've worked hard and paid my taxes." And, finally, that person wants to know why can not more be expected from his Government than political rhetoric.

That is why we must begin now to develop the data and information and the programs to answer these extremely difficult problems of job dislocations, increasing inflation, and industrial closings caused by the energy shortage.

Mr. President, my amendment will lay the ground work for the development of policies and programs directed toward alleviating these programs. It will provide the Congress and the administration with a basis for rational program initiation. And, it will tell the people of the United States that their Government is thinking about them and their immediate problems, and how they can be assisted in coping with the energy crisis.

Mr. President, I believe this amendment will be a contribution to the bill and a contribution to understanding what the problem is.

Mr. JACKSON. Mr. President, once again it is the able Senator from Texas (Mr. BENTSEN), a profound student of business economics, who has put his finger on what I think is the crucial problem facing us in the energy crisis. It relates to the economic impact of the cutbacks which we are already experiencing in the energy area as it relates to the production of goods and services in the economy.

It is clear that there have already been rough estimates that the gross national product, at best, may well remain a constant with no increase, so that with inflation, and so forth, we would encounter effectively, a decline. Therefore, we should know what the full impact will be. This is something the Council of Economic Advisers should be undertaking at the present time. The amendment will be a burr under their saddle so that they will move without delay. It expresses the deep concern of Congress as to the urgency of getting some early economic forecasts and projections, if they are possible, as a result of the cutbacks in energy.

I commend the Senator from Texas for his amendment.

Mr. BENTSEN. Mr. President, I want to add my voice to the many that have thanked the distinguished Senator from Washington (Mr. JACKSON) for the leadership he has shown in meeting this crisis and moving forward with remedial legislation to see that we can help do something about it.

Mr. FANNIN. Mr. President, I am very much pleased to concur with the remarks of the Senator from Washington, the manager of the bill, and to commend the Senator from Texas for offering his amendment, which I think is beneficial and will assist us greatly in knowing exactly what path we are traveling.

I am very pleased to support the amendment.

Mr. BENTSEN. I thank the distinguished Senator from Arizona. I appreciate his immense experience, background, and understanding of the energy source, supplies, and the utilization of them when it comes to the question of resolving this problem.

Mr. President, I urge acceptance of my amendment by the Senate.

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

The amendment was agreed to.

AMENDMENT NO. 692

Mr. FANNIN. Mr. President, I call up my amendment No. 692 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 22, lines 7 through 18, delete subsection 204(c) in its entirety and insert in lieu thereof:

"(c) the President shall develop and implement federally sponsored incentives for the use of public transportation, including priority rationing of fuel for mass transit systems for the duration of the energy emergency.".

Mr. FANNIN. Mr. President, this amendment replaces section 204(c) of the bill with new language. The new language would provide for incentives to, but not additional subsidies for, mass transit. This is an important amendment and is designed to assist mass transit without legislating new programs for mass transit. The Interior Committee has no business legislating about mass transit.

Thus, I hope that this amendment will be accepted in the bipartisan spirit in which it is intended.

The type of a subsidy called for in the bill will not solve the basic problem, which is overuse of the automobile. The solution to this problem requires local and State action affecting automobile use including priority lanes for transit, other traffic regulations affecting the choice of mode, land use controls, pricing, and supply of parking facilities, and the formulation of institutions able to deal effectively with these problems at the local level. All these are totally outside the purview of Federal responsibility and clearly require local solutions tailored to local problems.

The availability of Federal funds for operating subsidies would weaken the incentives currently felt by local officials and transit management to improve their operations and hold down operating costs.

A Federal subsidy for reduced fares would constitute a windfall bonanza for cities with large transit companies and would benefit many middle- and upper-class suburban commuters who have no need for, nor right to, such a subsidy. In short, we would be diluting scarce Federal funds in a manner which will not strengthen or expand mass transit and which will unfairly benefit many of those who need it the least.

What needs to be done is to intensify our Federal efforts to provide funds for capital investment in mass transit. This is a proper Federal role which the Congress recognized as it passed the Federal-Aid Highway Act of 1973, which permits State and local communities to use some of their highway program funds for mass transit capital purposes such as the purchase of buses.

I trust that the floor manager will accept the amendment.

Mr. JACKSON. Mr. President, I regret that I cannot accept the amendment. I would certainly go along with it if it were in addition to the provisions in subsection (c). But this is in lieu of the direct Federal subsidy that we have provided to bring about reduced fares and to encourage the use of mass transit systems. If the Senator would offer his amendment not in lieu of, but in addition to, the present provisions of this bill I could go along with it because it is in the area where one ought to encourage and provide those incentives that the Senator has referred to. But I would not want to accept it in lieu of the committee's approach to the question.

The Senator knows that we worked out the language in the bill with the Senator from West Virginia (Mr. RANDOLPH), chairman of the Committee on Public Works. I do not feel that I am in a position to accept the amendment under those circumstances.

Mr. FANNIN. I understand the Senator's position. I know that at the time we discussed the amendment in committee, I proposed the amendment. There was a vote which was favorable to the amendment. But I do not feel we should have it as an open ended program. I do not think the Senator had a figure at that time—I do not know whether he has a figure at this time—as to what the subsidy would be. Can the distinguished Senator from Washington tell me how much this will cost or give an estimate of what it will cost?

Mr. JACKSON. I really do not know that anyone can give an estimate until we know how bad the crisis will be. This will be a matter for the Committee on Appropriations to work out. They will be able to obtain better estimates after we have passed this bill and then give us the appropriate amount. Congress will retain its authority.

Mr. FANNIN. Does the Senator feel that this is just an emergency measure; that as soon as a period of 1 year has elapsed, these proposals will be dropped?

Mr. JACKSON. I am speaking only for myself. This is solely for the emergency. The help in connection with mass transit will be tied to the provisions of the highway trust fund, as included in the act that was passed as a compromise a few weeks ago.

Mr. FANNIN. As far as I know, there is no formula that can be used beneficially to be sure that we provide equal treatment for all the people who are going to be riding the buses, or even assuring increased utilization of the buses. I think an estimate has been given that it would be very small, as far as fares are concerned. In the overall, it could be very expensive. With respect to a 50-cent charge, I do not know whether the Senator has an idea as to whether the subsidy would be 10 cents or what amount would be involved.

Is any formula included in this particular provision?

Mr. JACKSON. We have not endeavored to spell out the formula. This is, again, a matter in which we would hope the administration would come forth with some recommended guidelines when they request the funds for this purpose from the Appropriations Committee. Frankly, I do not know how we can work out guidelines until we have a better idea where we are going to be a few weeks hence.

Mr. FANNIN. That is what I am afraid of. I do not think we know where we are going as far as this provision is concerned, so I will request a rollcall vote.

Mr. JACKSON. This is an emergency bill.

Mr. President, I ask unanimous consent that the vote on the Fannin amendment as it relates to mass transit be deferred until after 1 o'clock, at which time a request will be made for the yeas and nays.

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

Mr. JACKSON. Or it may be offered earlier.

AMENDMENT NO. 693

Mr. FANNIN. Mr. President, I call up amendment No. 693.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 27, line 1, strike the words "The Con-", and delete lines 2 through 5.

Mr. FANNIN. Mr. President, this amendment would delete the final portion of section 301. Its effect would be to remove the section which gives Congress the opportunity to veto all or part of any program or proposal the President initiates under this act. Such a power would only cause confusion.

Further, in light of the Javits amendment, which was adopted this morning, Congress could veto the entire program within 6 months. Thus, in light of the adoption of the Javits amendment, the last sentence of section 301 is not necessary. If it were left in, it would only maximize uncertainty.

This is an emergency act, and we must grant the President emergency power, without trying to look over his shoulder and second-guess him on part or all of every program he initiates under this act.

For these reasons, I ask that my amendment be adopted. I trust that the floor manager of the bill will accept it. It is my understanding that a partial veto would be unconstitutional.

Mr. JACKSON. Mr. President, I regret that I will have to oppose this amendment.

There is a need to have some kind of congressional oversight and overview of this program. It would be a mistake to take away the authority of Congress to take appropriate action to reject the proposal in a given situation where, in the judgment of Congress, the President has exceeded the authority or, in the judgment of Congress, the President has offered a proposal that is contrary to the judgment of Congress.

The Senator from Arizona does raise a question that is a tough one—it has never been resolved—and that is the question of an item veto. I think there is a constitutional question. We have never resolved it. I am being very candid about it. I would hope that that aspect of it could be resolved in conference. But I regret that I will have to oppose the amendment, and I assume the Senator will want a rollcall vote.

Mr. FANNIN. Yes. The administration desires this amendment. I would appreciate a rollcall vote on this amendment.

Mr. HRUSKA. Mr. President, I rise in support of amendment No. 693 proposed by the Senator from Arizona and directed against the so-called congressional item veto contained in section 301 of the bill.

Section 301 reads as follows:

SEC. 301. CONGRESSIONAL APPROVAL.—Within 2 weeks after the date of enactment of this Act, the President will submit to Congress his proposals for the emergency contingency programs provided for in title II of this Act, and proposals for implementing such programs. The Congress may, within fifteen days of such submission, five of which must have been in legislative session, by concurrent resolution specifically disapprove all or part of the program or proposal.

This provision, to the extent that it provides for an item veto of provisions of the President's emergency proposals, raises a serious issue involving the Constitutional doctrine of separation of powers. Furthermore, it could effectively impede the effectuation of urgent emergency actions, under this and other legislation, to cope with the energy crisis that this legislation is designed to ameliorate.

Section 301 requires the President to submit to the Congress emergency contingency proposals for dealing with the energy crisis within 2 weeks after the enactment of this act.

This is an unrealistically short time for such a complex undertaking. Furthermore, the concept of a single set of contingency proposals to deal with energy crisis is even more unrealistic. Demand and supply conditions change. For example, the Arab Nations have relented, at least temporarily, on shipments of petroleum to Europe. They could continue that policy indefinitely or cut-off supplies overnight. They could relent, in whole or in part, on shipments to the United States. Weather could be mild or it could be severe. Consequently, any contingency plans must be flexible. If the Congress were to approve a set of contingency proposals as prescribed by section 301, flexibility, in all likelihood, would be lost since changes in those plans would almost assuredly be subject to congressional review. Changes in those plans, based upon sensitive secret negotiations with foreign nations, would be effectively precluded if the Congress had to approve each such change and the reasons for the changes had to be spread upon the records of the Congress.

Therefore, it is urged that section 301 be omitted from this legislation. The executive branch is, and has been, developing contingency plans to deal with the situation and will continue to do so. The Congress will, of necessity, be kept fully informed of those plans.

Clearly the function of preparing the emergency contingency proposals under section 301 is, by the terms of that section, an Executive function. Under the separation of powers concept of the Constitution, the Congress cannot participate in the performance of Executive functions. Yet that is precisely what it would be doing if it could disapprove a part of the President's contingency proposals and allow others to become effective. Those disapproval provisions cannot be considered to be an exercise of legislative powers of the Congress because it would permit the Congress, in effect, to enact a part of the President's proposals without affording him any opportunity to approve or veto the truncated package.

The proposed amendment should be approved.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Fannin amendment, No. 693, go over until after 1 o'clock, at which time it will be in order to ask for the yeas and nays on the Fannin amendment.

Mr. FANNIN. I thank the distinguished Senator.

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

AMENDMENT NO. 671

Mr. FANNIN. Mr. President, I call up amendment No. 671.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 20, strike all of lines 5 through 24, and on page 21, strike all of lines 1 through 5, and insert in lieu thereof:

(b)(1) The Interstate Commerce Commission, with respect to carriers subject to regulation under parts I, II, and III of the Interstate Commerce Act, the Civil Aeronautics Board with respect to air carriers engaged in interstate, overseas, and foreign air transportation, and the Federal Maritime Commission, with respect to carriers subject to its jurisdiction for the duration of the energy emergency, in addition to their existing powers, shall have the authority on their own motion or by motion of any interested party, after consultation with the Secretary of Transportation and any other interested Federal agencies, to review and make reasonable and necessary adjustments to the operating authority of carriers within their respective jurisdictions in order to conserve fuel while providing for the public convenience and necessity. This authority includes but is not limited to adjusting the level of operations, altering points served, shortening distances traveled, and reviewing or adjusting rates accordingly. Actions taken pursuant to this paragraph may be taken, notwithstanding any other provision of law, after hearings in accordance with section 553 of title 5 of the United States Code. Any person adversely affected by an action shall be entitled to a judicial review of such action in accordance with chapter 7 of title 5 of the United States Code.

Mr. FANNIN. Mr. President, all this amendment does is require that actions taken pursuant to this bill by the ICC,

the CAB, and the FMC be coordinated with the Department of Transportation. During this energy emergency, such consultation and coordination are entirely necessary in order to avoid confusion among transportation agencies in their trying to implement this act. Thus, I urge the adoption of this amendment.

Mr. JACKSON. Mr. President, we worked this out with the Committee on Commerce previously, and the language contained in this section was agreeable to the Commerce Committee. They have jurisdiction in this area. I feel obliged to oppose the amendment. This is a jurisdictional problem, basically. I therefore abide by the understanding we had with the Commerce Committee.

Mr. FANNIN. Mr. President, the administration is anxious to have this amendment, since they feel that it is essential that these various agencies coordinate their efforts with the Department of Transportation.

I ask the distinguished Senator from Washington that we have a rollcall vote on this amendment and that the yeas and nays be ordered at the appropriate time.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Fannin amendment No. 671 go over until after the hour of 1 p.m., at which time it will be in order to ask for the yeas and nays on the amendment.

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

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

The PRESIDING OFFICER. The Senator had five amendments.

Mr. FANNIN. I ask unanimous consent that I be able to submit this amendment. I think the Senator understands.

Mr. JACKSON. Yes.

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

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill add a new title as follows:

TITLE V—ESTABLISHMENT OF ENERGY POLICY OFFICE

ORGANIZATION

SEC. 501. (a) The office in the Executive Office of the President created under Executive Order No. 11726, dated June 29, 1973, and known as the Energy Policy Office (hereinafter in this Title referred to as the "Office") is hereby continued.

(b) The Office shall be headed by a Director of Energy Policy (hereinafter in this Title referred to as the "Director"), who shall be appointed by the President by and with the advice and consent of the Senate.

(c)(1) The functions and powers of the Office shall be vested in the Director.

(2) The Director may from time to time delegate such of his functions as he deems appropriate.

(3) The Director shall exercise all executive and administrative functions of the Office.

(d) There shall be in the Office two Deputy Directors each of whom shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Directors shall perform such functions and duties and exercise such powers as the Director may prescribe.

(e) There shall be in the Office a General Counsel, appointed by the President. The General Counsel shall be the chief legal officer of the Office, and shall perform such functions and duties as the Director may prescribe.

(f) There shall be in the Office not to exceed five Associate Directors, and not to exceed five Assistant Directors, each of whom shall be appointed by the Director. The associate Directors and the Assistant Directors shall perform such functions and duties as the Director may prescribe.

(g) The Director shall designate the order in which Deputy Directors and other officials shall act for and perform the functions of the Director during his absence and disability or in the event of a vacancy in his Office.

FUNCTIONS OF OFFICE

SEC. 502. (a) Under the direction of the President, the Director shall be the chief policy officer of the Executive Branch with respect to energy matters, and shall be the President's principal adviser concerning those matters.

(b) The functions of the Director shall include, but not be limited to, the following:

(1) identify major problems, present and prospective, in the energy area;

(2) review in consultation with departments, agencies and outside groups, policy alternatives with respect to energy matters;

(3) assure that Executive departments and agencies develop short and long-range plans and programs to provide:

(i) adequate and dependable supplies of,

(ii) prudent use and conservation of, and

(iii) fair and equitable allocation of, national energy resources;

(4) assure monitoring of the implementation of approved energy policies, plans and programs;

(5) identify the need for energy statistics and data and assure that this information is being collected and analyzed as the basis for policy decisions; and,

(6) facilitate the coordination of energy activities of the Federal Government and provide leadership to State and local governments and others involved in energy activities.

ADMINISTRATION

SEC. 503. The Director is authorized, in carrying out his functions under this Title, to:

(a) Without regard to civil service and classification laws appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and prescribe their authority and duties; except that such officers and employees shall be compensated at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5, United States Code;

(b) employ experts, expert witnesses, and consultants in accordance with section 3109 of title 5, United States Code, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, for each day they are so employed (including travel time) and pay such persons travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(c) appoint advisory committees composed of such private citizens or officials of Federal, State, and local governments as he deems desirable to advise him, and compensate such persons other than those employed by the Federal Government at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, for each day they are engaged in the actual performance of their duties (including travel time) as members of a committee and pay such persons travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(d) promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him and delegate authority for the performance of any such function to any officer or employee under his direction and supervision;

(e) utilize, with their consent, the services, personnel, and facilities of Federal, State, regional, local, and private agencies and instrumentalities, with or without reimbursement therefor, and transfer funds made available under this Title to Federal, State, regional, local, and private agencies and instrumentalities as reimbursement for utilization of such services, personnel, and facilities;

(f) accept voluntary and uncompensated services, except where such services involve administrative proceedings, investigations, or enforcement powers notwithstanding the provisions of section 3679 of the Revised Statutes;

(g) adopt an official seal, which shall be judicially noticed. The provisions of section 709 of title 18, United States Code, shall apply to the use of the seal, after its adoption and publication in the Federal Register, except as authorized under rules or regulations issued by the Director;

(h) accept unconditional gifts or donations of services, money or property, real, personal, or mixed, tangible or intangible except that the acceptance of donations of services shall be subject to the provisions of paragraph (f) of this section;

(i) subject to appropriation Acts, enter into and perform contracts, leases, cooperative agreements, or other transactions with any public agency or instrumentality or with any person, firm, association, corporation, or institution; and

(j) perform such other administrative activities as may be necessary for the effective fulfillment of his duties and functions.

COMPENSATION

SEC. 504. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(22) Director of Energy Policy."

(b) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(62) Deputy Directors, Energy Policy Office (2)."

(c) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(99) Associate Directors, Energy Policy Office (5)."

"(100) General Counsel, Energy Policy Office."

(d) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(132) Assistant Directors, Energy Policy Office (5)."

APPROPRIATIONS

SEC. 505. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. FANNIN. Mr. President, this is an amendment to create an Energy Policy Office in the Executive Office of the President.

At this time, I should like to read a

letter that was sent to the chairman, Senator JACKSON with a copy to me:

NOVEMBER 19, 1973.

DEAR SENATOR JACKSON: Enclosed for your consideration as an amendment to S. 2589 is a proposal for establishment of the Energy Policy Office in the Executive Office of the President on a statutory basis.

As you know, the Energy Policy Office was created by Executive Order last June. Subsequent aggravation of the Nation's energy problems and the rapid growth in the workload associated with the planning, formulation, and coordination of energy policy and its implementation require a more permanent, statutory basis upon which the Office could expand its staff commensurate with the workload and develop its own budget requests within the Executive Office for appropriate Presidential and Congressional review and action.

The Office of Management and Budget advises that the proposed amendment to S. 2589 is consistent with the President's program.

Sincerely,

JOHN A. LOVE,
Assistant to the President.

Mr. President, this letter was sent to the Senator from Washington (Mr. JACKSON) with a copy to me. I would like to have the Senator's thoughts on the matter.

Mr. JACKSON. Mr. President, I just learned of the letter when I received, first, a call from Governor Love, and the letter arrived a few moments ago. As the Senator mentioned, the matter was not brought to our attention during the course of the hearings.

The amendment is rather lengthy and I would respectfully request that the amendment be deferred so that we can have a hearing as soon after Thanksgiving as possible to pass on the specific legislative request. I would point out that we do have a number of urgent energy bills, the $20 million research and development program, and one or two other measures. Then, we will get right to this matter. This is an urgent matter and I would not hesitate if we had had some hearings or previous notice, but the matter is complicated.

The amendment runs many pages and it would necessitate some detailed explanation. I would, therefore, respectfully request that the matter be deferred, with the understanding I just mentioned.

Mr. FANNIN. I understand the feelings of the distinguished Senator, the manager of the bill. I agree with him that we did not receive this in time for full consideration. I think the Senator has made a fair proposal; that we will have early hearings on the amendment. With the workload we have before us I feel it should have priority and I trust he will make every endeavor to see that we get early consideration.

Mr. JACKSON. I certainly will, and I will coordinate with the ranking minority member. The Senator knows the problem in connection with the heavy legislative schedule we have in our committee, which is the heaviest, I believe, of any committee in the Senate. But we will not waste any time.

Mr. FANNIN. I appreciate the manner in which the distinguished Senator is willing to go forward on this very important matter. With that understanding, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Under the previous order, following disposition of the amendment by the Senator from Arizona (Mr. FANNIN), the Senate will proceed to consideration of the amendment by the Senator from Washington (Mr. JACKSON), amendment No. 68, on which there shall be 40 minutes of debate.

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

Add a new section 101(h) after line 2, at page 14, as follows:

"(h) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency,"

Add a new section 102(h) after line 6, at page 15, as follows:

"(h) insure against anticompetitive practices and effects and preserve, enhance, and facilitate competition in the development, production, transportation, distribution, and marketing of energy resources."

Add a new section 312 after line 8, at page 33, as follows: and redesignate the remaining sections:

"SEC. 312. ANTITRUST PROVISIONS.—(a) Except as specifically provided in subsections (f) and (k), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

"(b) As used in this section, the term 'antitrust laws' includes—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.);

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9); and

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"(c) The President shall develop plans of action and may authorize voluntary agreements which are necessary to achieve the purposes of this Act and which encourage and facilitate cooperation and voluntary agreements between (1) the Federal Government, and (2) appropriate segments of the petroleum industry and interested and concerned labor, consumer, and other essential groups. These groups of action and voluntary agreements may be regional in nature or may address functional aspects of the Nation's petroleum system.

"(d)(1) To achieve the purposes of this Act the President may, in addition to the National Energy Advisory Committee established by section 308 of this Act, provide for the establishment of interagency committees and such additional advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. I) and shall in all cases be chaired by a regular full-time Federal employee.

"(2) An appropriate representative of the Federal Government shall be in attendance at all meetings of any advisory committee or any interagency committee established pursuant to this Act. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

"(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and, subject to existing law concerning national security and proprietary information, shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

"(e) The Attorney General and the Federal Trade Commission (1) shall participate in the preparation of any plans of action or voluntary agreement and may propose any alternative which would avoid or overcome, to the greatest extent practical, any anticompetitive effects while achieving the purposes of this Act, and (2) shall have the right to review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement at any time if they determine such plan of action or voluntary agreement is contrary to the purposes of this section, or not necessary to achieve the purposes of this Act.

"(f) Whenever it is necessary, in order to achieve the purposes of this Act, for owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so and have the benefit of the defense provided for in subsection (k) if such meeting, conference, communication, or course of action is conducted in compliance with the provisions of this section and solely for the purpose of achieving the objectives of this Act.

"(g)(1) The Attorney General may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (d) (1) and (3) where such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of carrying out and implementing a plan of action or a voluntary agreement which has been prepared and approved pursuant to this section.

"(2) Any meetings, conferences, or communications exempted from the requirements of subsections (d) (1) and (3) shall be undertaken in accordance with regulations promulgated to implement this section. These regulations shall provide that a log or memorandum of record of any meeting, conference, or communication covered by this subsection (g)(1) shall be prepared and filed with the Assistant Attorney General in charge of the Antitrust Division and the Federal Trade Commission.

"(h) The President is authorized to delegate the authority provided for in section 312(c) and (d)(1) to a Federal officer appointed with the advice and consent of the Senate. The President shall issue regulations governing the operation and implementation of this section 312(c) and (d).

"(i) No provision of this section is intended to supersede, amend, repeal, or modify any provision of the Defense Production Act of 1950, as amended, except that the provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act or the authority contained in the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973).

"(j) This section 312 shall apply to the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973) notwithstanding any inconsistent provisions of section 6(c) of that Act.

"(k) There shall be available as a defense to any civil or criminal action brought under the antitrust laws arising from any course of action or from any meeting, conference, or communication or agreement held or made in compliance with the provisions of this section solely for the purpose of carrying out a plan of action, voluntary agreement, or otherwise undertaken solely to comply with the requirement of this section.

"(l) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way effecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act; (2) outside the scope and purpose of this Act and this section, or (3) subsequent to its expiration or repeal.

"(m)(1) The Attorney General and the Federal Trade Commission are charged with responsibility for monitoring the implementation of any plan of action, voluntary agreement, regulation or order approved pursuant to section 312 to determine compliance with the purposes of section 101(h) and 102(h) of this Act.

"(2) In furtherance of this responsibility, the Attorney General and the Federal Trade Commission will promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to implementation of any plan of action, voluntary agreement, regulation, or order approved under this Act.

"(3) Persons implementing any program, plan of action, voluntary agreement, regulation, or order approved under this Act will maintain those records required by joint regulations promulgated pursuant to subsection (1) above, and they shall be available for inspection by the Attorney General and the Federal Trade Commission at reasonable times and upon reasonable notice.

"(n) The exercise of the authority provided in section 204(b)(1) shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after provding an opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I suggest the absence of a quorum, the time to be charged to my time.

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. JACKSON. 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. JACKSON. Mr. President, I ask unanimous consent, despite the unanimous consent agreement previously entered into, that an amendment to be offered by the Senator from Kansas (Mr. DOLE) be in order at this time.

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

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

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 26, between lines 19 and 20, add the following new subsection:

"SEC. 209. The Secretary of the Interior and the Secretary of Commerce are hereby directed to prepare a comprehensive review of export policies for petroleum and other energy sources to determine the consistency or lack thereof of the Nation's energy trade policy with domestic fuel conservation efforts. Such report shall be submitted to Congress within 30 days after the enactment of this Act."

Mr. DOLE. Mr. President, great concern has recently been expressed over America's full exports policies. Figures have been cited to show that even in this crtical period of fuel shortages fuels are being sent outside the country.

On Friday the Senate adopted an amendment to grant the President authority to limit fuel exports.

As the McIntyre amendment was debated, and as discussion of whether exports are actually helping or hurting us, I have been struck by the scarcity of solid information and lack of real facts on this question. We have some general figures about petroleum exports and imports, but there is little specific information on which Congress can base a judgment about these matters.

For this reason, I am proposing an amendment ordering the Secretary of the Interior and the Secretary of Commerce to make a comprehensive report to Congress on our fuel export policies to determine whether our energy trade policy is in step with our domestic fuel conservation efforts.

The study should include an analysis of the current trade agreements involving the exporting and importing of fuels to see what might be done to adjust the trade relations in such a way that the energy needs of the country are better served. New import sources and potentials should be investigated and identified. The distillation of crude oil into those products for which there is the greatest domestic need should be examined. For example, the major petroleum products exported from this country are petroleum coke, greases, and lubricants. If proper incentives were available, possibly the distilling process would be adjusted to produce more of the low-grade heating fuels which are so much in domestic demand and less of the products which are utilized for export.

I agree with the purpose of the amendment offered Friday by the senior Senator from New Hampshire to provide the President with authority to control fuel and other petroleum exports. I feel that, and as the Senator from Arizona (Mr. FANNIN) indicated, increased domestic fuels supplies might not be attained by a strict embargo at this time. By stopping the export of fuels we would retain all of our present domestic supplies, but the important question that must be asked at this time is what effect would a freeze on export have on our attempt to increase the amount of imported fuels that will be available. In other words, would a halt of fuel exports mean a decrease in fuel imports and an overall decrease in net supplies? I am not saying that this would happen, but it might, and I feel caution should prevail while we are attempting to carve out a policy that will protect domestic supplies and at the same time insure that our overall supplies from both domestic and imported sources are not inadvertently restricted.

The international market is too complex and we are too dependent on foreign fuel sources to take drastic and uninformed action. But at the same time, we cannot stand idly by and let fuels we so desperately need here at home be exported to foreign countries if such exports are harmful to our overall energy posture.

This amendment would provide the Congress and the Nation with much needed information about a critical area of concern to us all. And this information can serve as the basis for any specific legislative measures which might be required to assure, to the utmost possible extent, that Americans are not deprived of necessary fuels because of unwise export policies and loopholes.

Mr. President, I have discussed with the Senator from Washington, the Senator from Arizona, and the Senator from Wyoming. It does provide for a study on our export policy by the Secretary of the Interior and the Secretary of Commerce. I think the amendment is acceptable to the manager of the bill.

Mr. JACKSON. Mr. President, I am very pleased to accept the amendment. This is an area that does require careful study. There has been little study on the question of exports heretofore when we have been focusing our attention on oil imports.

I commend the Senator from Kansas for offering the amendment, and I am prepared to accept it.

Mr. FANNIN. Mr. President, I am very pleased to accept the amendment of the Senator from Kansas. I think it helps clarify exactly the situation that exists. It is a good amendment, and I support it.

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

The amendment was agreed to.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I believe the pending amendment is the antitrust amendment. Is that correct?

The PRESIDING OFFICER. The pending amendment is amendment No. 685.

Mr. JACKSON. I call up that amendment.

The PRESIDING OFFICER. Amendment No. 685 is the pending business. It has been reported.

Mr. JACKSON. Mr. President, dealing

with the shortages facing the Nation will require the effective implementation of both S. 1570, the Mandatory Fuel Allocation Act which the Congress adopted last week, and S. 2589, the National Energy Emergency Act of 1973. Implementation of these measures will require the full support and cooperation of all segments of the petroleum industry.

Representatives of the companies which comprise this industry will have to meet with Federal officials and be kept currently informed of national priorities and plans for dealing with regional, State and local shortages. In many cases, the companies—under direct Federal supervision—will have to implement the national decisions concerning allocations to end users and in the movement of crude oil and refined products from areas of surplus to areas of need.

It will be necessary for company representatives to meet, communicate, and, in some cases, to undertake joint courses of action if the purposes of this Act and the Mandatory Allocation Act are to be achieved. Obviously, these meetings, conferences and joint causes of action could constitute violations of the antitrust laws.

To the extent that this is the case, it is anticipated that the companies will be very reluctant to fully cooperate, because by doing so they may be subject to civil and criminal actions under the antitrust laws.

To deal with this problem in connection with S. 1570, the Mandatory Allocation Act, the Congress adopted section 6(c), which provided the companies with a very limited "defense" to such actions so long as any such meetings of joint courses of action were required to achieve the purposes of that act, were monitored by the Attorney General and undertaken at the express request of the Federal Government.

During the committee's consideration of S. 2589, the committee recognized that legitimate corporate concern about antitrust problems could be a constraint to achieving the purposes of this emergency legislation.

During markup, an amendment to deal with this problem was rejected by the committee because it did not provide adequate safeguards. The amendment rejected by the committee reads as follows:

SEC. 305. If the President makes a finding that voluntary agreements or programs which involve joint government-industry coordination with respect to the conservation, allocation, or distribution of energy supplies are necessary in order to protect the public interest by contributing either to national defense or to public health, safety, or welfare, the provisions of section 708 of the Defense Production Act of 1950 (50 App. U.S.C. 2158) shall apply, notwithstanding any other provision of law which may otherwise relate to the formulation and implementation of such voluntary agreements or programs.

The administration proposed a somewhat more limited amendment which was discussed but not adopted. The amendment reads as follows:

SEC. —. In carrying out the provisions of this Act, Section 203 (a) (3) of the Economic Stabilization Act of 1970, as amended, and the (S. 1570), the President or his designee, may exercise the authority, relating to voluntary agreements, conferred upon him by Section 708 of the Defense Production Act of 1950, as amended, subject to the terms, procedures, and limitations specified in that section. Acts or omissions to act which occur pursuant to voluntary agreements approved pursuant to this section shall enjoy antitrust immunity as provided in Section 708.

The committee ordered S. 2589 favorably reported to the Senate with the understanding that committee staff would meet with administration representatives and representatives of other committees to develop an agreed-upon amendment that all parties could support. A number of meetings were held on this subject, and an amendment was agreed upon. I introduced this amendment on Friday. It is the amendment pending now before the Senate.

Mr. President, the amendment provides, I believe, an excellent resolution of this problem. It protects the public interest in the integrity of the antitrust laws and, at the same time, provides a limited defense to actions under the antitrust laws where the person or company is acting solely in compliance with Federal directives designed to achieve the purposes of this act.

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

There being no objection, amendments No. 685 were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 685

Add a new section 101(h) after line 2, at page 14, as follows:

"(h) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency."

Add a new section 102(h) after line 6, at page 15, as follows:

"(h) insure against anticompetitive practices and effects and preserve, enhance, and facilitate competition in the development, production, transportation, distribution, and marketing of energy resources."

Add a new section 312 after line 8, at page 33, as follows, and redesignate the remaining sections:

"SEC. 312. ANTITRUST PROVISIONS.—(a) Except as specifically provided in subsections (f) and (k), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

"(b) As used in this section, the term 'antitrust laws' includes—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.);

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9); and

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"(c) The President shall develop plans of action and may authorize voluntary agreements which are necessary to achieve the purposes of this Act and which encourage and facilitate cooperation and voluntary agreements between (1) the Federal Government, and (2) appropriate segments of the petroleum industry and interested and concerned labor, consumer, and other essential groups. These plans of action and voluntary agreements may be regional in nature or may address functional aspects of the Nation's petroleum system.

"(d) (1) To achieve the purposes of this Act the President may, in addition to the National Energy Advisory Committee established by section 308 of this Act, provide for the establishment of interagency committees and such additional advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. I) and shall in all cases be chaired by a regular full-time Federal employee.

"(2) An appropriate representative of the Federal Government shall be in attendance at all meetings of any advisory committee or any interagency committee established pursuant to this Act. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

"(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and, subject to existing law concerning national security and proprietary information, shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

"(e) The Attorney General and the Federal Trade Commission (1) shall participate in the preparation of any plans of action or voluntary agreement and may propose any alternative which would avoid or overcome, to the greatest extent practical, any anticompetitive effects while achieving the purposes of this Act, and (2) shall have the right to review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement at any time if they determine such plan of action or voluntary agreement is contrary to the purposes of this section, or not necessary to achieve the purposes of this Act.

"(f) Whenever it is necessary, in order to achieve the purposes of this Act, for owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so and have the benefit of the defense provided for in subsection (k) if such meeting, conference, communication, or course of action is conducted in compliance with the provisions of this section and solely for the purpose of achieving the objectives of this Act.

"(g) (1) The Attorney General may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (d) (1) and (3) where such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of carrying out and implementing a plan of action or a voluntary agreement which has been prepared and approved pursuant to this section.

"(2) Any meetings, conferences, or communications exempted from the requirements of subsections (d) (1) and (3) shall be undertaken in accordance with regulations promulgated to implement this section. These regulations shall provide that a log or memorandum of record of any meeting, conference, or communication covered by this subsection (g) (1) shall be prepared and filed with the Assistant Attorney General in charge of the Antitrust Division and the Federal Trade Commission.

"(h) The President is authorized to dele-

gate the authority provided for in section 312 (c) and (d)(1) to a Federal officer appointed with the advice and consent of the Senate. The President shall issue regulations governing the operation and implementation of this section 312 (c) and (d).

"(i) No provision of this section is intended to supersede, amend, repeal, or modify any provision of the Defense Production Act of 1950, as amended, except that the provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act or the authority contained in the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973).

"(j) This section 312 shall apply to the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973) notwithstanding any inconsistent provisions of section 6(c) of that Act.

"(k) There shall be available as a defense to any civil or criminal action brought under the antitrust laws arising from any course of action or from any meeting, conference, or communication or agreement held or made in compliance with the provisions of this section solely for the purpose of carrying out a plan of action, voluntary agreement, or otherwise undertaken solely to comply with the requirement of this section.

"(l) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way effecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act; (2) outside the scope and purpose of this Act and this section, or (3) subsequent to its expiration or repeal.

"(m)(1) The Attorney General and the Federal Trade Commission are charged with responsibility for monitoring the implementation of any plan of action, voluntary agreement, regulation or order approved pursuant to section 312 to determine compliance with the purposes of sections 101(h) and 102(h) of this Act.

"(2) In furtherance of this responsibility, the Attorney General and the Federal Trade Commission will promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to implementation of any plan of action, voluntary agreement, regulation, or order approved under this Act.

"(3) Persons implementing any program, plan of action, voluntary agreement, regulation, or order approved under this Act will maintain those records required by joint regulations promulgated pursuant to subsection (1) above, and they shall be available for inspection by the Attorney General and the Federal Trade Commission at reasonable times and upon reasonable notice.

"(n) The exercise of the authority provided in section 204(b)(1) shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing an opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

Mr. FANNIN. Mr. President, I support the amendment, which, I would like to indicate for the record, was carefully prepared, as the distinguished Senator from Washington said, after consultations with the administration, the staff of the Senate Subcommittee on Antitrust and Monopoly, and the Senate Interior and Insular Affairs Committee staff. I received a letter from Governor Love asking that this amendment be supported.

For the record, however, I would like to note that this amendment gives the administration the flexibility to rely on section 708 of the Defense Production Act in lieu of the provisions of this act if he can make the defense Nexus required to implement the Defense Production Act.

Further, I would like to compliment the Senator from New York (Mr. BUCKLEY) for his leadership in first proposing in committee the amendment which has evolved into amendment No. 685, of which he is a cosponsor and which is being now considered.

The junior Senator from New York deserves credit for his leadership in this area. He devoted a great deal of time, attention, and study to just what is involved. He was the author of some of the stipulations in the amendment; he supports the amendment and urges that it be adopted.

Mr. HART. Mr. President, first of all, I might as well confess my initial concerns. This bill was introduced in an aura of press reports that the oil industry was seeking total antitrust exemption. Looking at the situation—faced with, to paraphrase, "the people who brought you the oil import quotas," which may very well have contributed to the situation we are in—I had a sinking feeling in my stomach.

Fortunately, it did not work out that way.

At the suggestion of Senator JACKSON, the majority and minority staffs of the Antitrust and Monopoly Subcommittee and the Interior Committee, and representatives of the administration and of the Federal Trade Commission, met extensively this week to sort out the myths from the realities. All were cognizant of the urgent need to accommodate the extraordinary circumstances of the energy crisis. At the same time, all agreed that only the minimum necessary antitrust ihroads should be made—and then only with adequate safeguards and procedural monitoring.

The lesson learned in the National Recovery Administration in 1933 was one that guided. Then too we were determined to solve a national crisis. But in solving it—in a method 2 years later declared unconstitutional by the Supreme Court—we found that anticompetitive practices had begun which we yet today are not shed of.

Frankly, I would like to see more antitrust safeguards in this bill. But honest negotiation could not produce them and concessions had to be made on both sides. All parties have agreed on the need for and purpose of these provisions. And, on balance, I think that the public interest—as far as antitrust is concerned—is reasonably well protected.

Therefore, I urge my colleagues to support these provisions and the bill.

For the record, let me explain the antitrust amendments:

The act provides no general immunity from the antitrust laws. A limited defense only is created under section 312 (f) and (k). Additionally, procedural and monitoring mechanisms are adopted to protect the public interest. The antitrust provisions adopted by both the Senate and the House in S. 1570—the Emergency Petroleum Allocation Act of 1973—are tailored to provide more flexibility and greater safeguards against abuse. And, the section 312 provisions shall supersede and apply to that act notwithstanding any inconsistent provisions in section 6(c) of that act. Competitive values are made a watchword in section 101(h) and 102 (h) for guidance in carrying out the act's purposes.

To carry out the act's purposes, certain authority is conferred upon the President which he may delegate as specifically provided. But, authority respecting antitrust and competitive matters and advice is vested exclusively with the Department of Justice and the Federal Trade Commission.

Because of the elaborate mechanism to protect the public interest incorporated in section 312, subsection (i) is designed to assure that the section's important safeguards and procedures incorporated as a condition for the granting of a limited antitrust defense and to protect the public interest are not bypassed. Thus, subsection 708 of the Defense Production Act cannot be invoked with respect to any activity which is authorized to be taken under this act or the Emergency Petroleum Allocation Act of 1973, whether or not such activity is also authorized or implemented under the Defense Production Act.

It is recognized that during the emergency, plans of action, voluntary agreements and the establishment of advisory and interagency committees may be necessary to effectuate the purposes of the act. Although these activities in and of themselves may not necessarily amount to violations of the antitrust laws, they present circumstances which increase the possibility of abuse. Thus, under subsections (c) and (d), the President may set these activities in motion if necessary to achieve the purpose of the act.

To protect against abuse and to insure compliance with the purposes of fostering competition and preventing anticompetitive effects, advisory committees are made subject to the Federal Advisory Committee Act of 1972 and may not be chaired by a person who is not in the ordinary course a full-time regular employee of the Federal Government. With respect to any advisory or interagency committee meeting, the Attorney General and the Federal Trade Commission must have advance notice and may have an official representative attend and participate. Also, a full and complete verbatim transcript of advisory committee meetings must be kept, together with any resulting agreement, which shall be deposited with the Attorney General and the Federal Trade Commission where it shall be made available for public inspection. National security and proprietary information, as defined by present law, may be excised therefrom by the Federal Trade Commission and the Attorney General before making it available to the public. In sum, it is intended that such meetings be held in a fish bowl atmosphere.

Subsection (g) provides a degree of flexibility so that the "fish bowl" atmosphere will not become unnecessarily burdensome. Under (g)(1) the Attorney General is authorized to exempt advisory

committee meetings from certain requirements of subsection (d) when they are ministerial in nature and are solely for the purpose of carrying out and implementing a plan of agreement which has already been approved. However, (g)(2) requires the promulgation of regulations which would assure adequate records in the form of logs or memoranda, so that the monitoring function could be performed. This provision is not intended to limit the more general authority given to the Attorney General and the Federal Trade Commission in subsection (m).

Subsection (n) provides that the purposes of the act in the regulated sector of common carriers will be effectuated with as little loss to competition as possible. To this end the two authorities charged with responsibility for the enforcement of the antitrust laws are required to assess the competitive impact of any actions taken in this sector before exercise of the authority provided in section 204(b)(1). The scope of their participation should be viewed in its broadest sense in keeping with the intent of these provisions. It is expected that, if necessary, the Department of Justice and Federal Trade Commission will propose alternative actions that would effectuate the purposes of this act with as little loss to competitive values as possible.

Subsection (e) specifically and affirmatively involves both the Attorney General and the Federal Trade Commission as continuing guardians of competition within the framework of this act.

The thrust of this subsection not only is constant vigilance by the Attorney General and the Federal Trade Commission, but also mandates their active participation and input from the very beginning into any plans of action or voluntary agreements. They are required to propose alternatives to avoid or overcome to the greatest extent practical any anticompetitive effects.

Additionally, at any time the Attorney General or the Federal Trade Commission may amend, modify or disapprove any plan of action or voluntary agreement if they find such plan of action or voluntary agreement is either contrary to the purposes of this section or not necessary to achieve the purposes of the act or not the approach which minimizes anticompetitive effects.

Similarly, they may review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement that has already been implemented.

In addition to the protection of the public interest in the foregoing manner, specific requirements, procedures, and monitoring are included as conditions to obtaining the limited immunity conferred. Section 312(b) defines antitrust laws and section 312(a) provides for such limited immunity in accordance with the provisions of subsections (f) and (k).

Subsection (f) limits the possible immunity conferred by subsection (k) to designated persons engaged in certain aspects of the petroleum business provided the enumerated activity was conducted solely for the purposes of achieving the objectives of this act and the persons are in compliance with the procedural and other safeguards and requirements of this section.

Subsection (k) confers the limited antitrust defense provided the activity was—

First, held or made in compliance with the protective, monitoring, and other provisions of this section; and

Second, solely for the purpose of carrying out an approved plan of action or voluntary agreement; or

Third, undertaken solely to comply with the requirements of this section.

Any actions or effects having any other purpose are not provided with antitrust immunity. This can be best illustrated by some simple examples. If several firms agree to allocate petroleum products among their customers in furtherance of the objectives of this act, but the purpose of the particular method used actually was the elimination of a competitor, that conduct would not be accorded antitrust protection. Also, a voluntary agreement among competitors to share crude reserves and transporting facilities for the purpose of efficiently allocating resources can be protected. If the parties to the agreement, however, implement its provisions in a predatory manner for the purpose of excluding unnecessarily smaller competitors from crude supplies or transportation services, this is not protected.

Subsection (l) makes clear that this act does not affect in any way any pending or possible antitrust cases regarding the petroleum industry. Nor does this act affect or limit any judgment or order that can be entered in such cases. Likewise, this act does not immunize any conduct which would occur subsequent to expiration or repeal of this act.

Subsection (m) provides the Department of Justice and the Federal Trade Commission with authority to police, quickly and efficiently, the activities carried out in furtherance of this Act. Accordingly, subsection (m)(2) directs the Attorney General and the Federal Trade Commission to promulgate regulations concerning the retention of records which are believed necessary or appropriate to evaluate possible anticompetitive activities and effects. Thus, the antitrust authorities will be in a position to continually assess and monitor activities taken under this act and whether immunity under subsection (k) is appropriate.

Nothing in subsection (m) is intended to limit other powers granted the Attorney General and the Federal Trade Commission under any other statute.

Mr. JACKSON. Mr. President, I ask unanimous consent that the vote on this amendment go over until after 1 o'clock.

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

Mr. JACKSON. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on all amendments that have been put over until 1 o'clock by one show of hands when the time comes.

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

Mr. JACKSON. And that applies, of course, to the pending amendment.

The PRESIDING OFFICER. Is time yielded back on the pending amendment?

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

Mr. FANNIN. Mr. President, before the quorum call goes into effect, I would just like to ask the Senator from Washington whether amendments Nos. 690, 691, 692, 693, and 671 were included in the request he made.

Mr. JACKSON. Oh, yes. Let me just explain. I now have, at this tally a request for nine rollcalls. The first one is the Helms amendment, then the Ribicoff amendment, then the Hansen amendment——

The PRESIDING OFFICER. The Chair understands that the order for the yeas and nays is as follows: The Ribicoff amendment No. 678, the Hansen amendment No. 682, the Fannin amendments Nos. 690, 691, 692, 693, and 671, the Jackson amendment No. 685.

Mr. JACKSON. Is that nine?

The PRESIDING OFFICER. The Chair counts eight.

Mr. JACKSON. What about the Helms amendment?

The PRESIDING OFFICER. The yeas and nays have already been ordered on that amendment, and on the tabling motion.

Mr. JACKSON Is it nine without the Helms amendment? That is, nine plus the Helms amendment?

The PRESIDING OFFICER. And the motion to table. The Senator is correct.

Mr. JACKSON. So we are talking about 10 votes. I think all Senators should be on notice that starting at 1 o'clock we will have a minimum of 10 rollcalls back to back.

The PRESIDING OFFICER. With 15 minutes on the first vote and 10 minutes thereafter.

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

The PRESIDING OFFICER (Mr. NUNN). Under the previous order, following the disposition of the amendment of the Senator from Washington, the Senate will proceed to the consideration of the amendment by the Senator from Indiana (Mr. BAYH), on which there is 10 minutes of debate.

AMENDMENT NO. 684

Mr. JACKSON. Mr. President, I ask unanimous consent that the Bayh amendment be temporarily laid aside and that it be in order to call up amendment No. 684.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered. The Clerk will state the amendment.

The assistant legislative clerk read as follows:

On page 25, lines 18 to 25, and page 26, lines 1 to 6, insert the following: Delete all of subsection 207(d) and redesignate (e) as "(d)".

Mr. JACKSON. Mr. President, this amendment would strike the provision from the bill which relates to the utilization on an emergency basis by the President of the naval oil reserve in California known as Elk Hill.

After careful consideration, I have come to the conclusion that due to certain outstanding contracts between the Government and the oil companies we are not in a position to authorize the President to take the emergency steps contemplated by this particular provision in the act.

Mr. President, in addition I would point out that the Department of Defense raises a question about this with regard to the position of the Joint Chiefs of Staff on the question.

On Saturday evening I had an opportunity to talk by telephone to the great statesman from Georgia, former Representative Carl Vinson, who celebrated on yesterday his 91st birthday.

During the course of that discussion I discussed with him the question of Elk Hill. As we all know, former Representative Vinson was the author of the naval petroleum reserve bill, I believe way back in 1914 or 1916. He is the father of the legislation.

Carl Vinson feels very strongly that it would be a mistake to deviate from the present provisions of the law as it pertains to this question.

Mr. President, this amendment would delete from S. 2859 subsection 207(d) which requires the production of oil and gas from the naval petroleum reserves and expedite the exploration and development of those reserves.

In my view the naval petroleum reserves have very real potential for lessening U.S. dependence on imported oil. This potential is largely undeveloped. It is for that reason that S. 1586, the Petroleum Reserves and Import Policy Act of 1973, which I introduced on April 16, provides for the expedited exploration of these reserves.

In the current energy emergency, the naval petroleum reserves could within 3 months add 160,000 barrels a day to domestic crude oil production. I favor producing from the reserves. For that reason, in drafting S. 2589, I included section 207(d) which requires production of oil and gas from the reserves. As my colleagues know, title 10, United States Code, section 7422 authorizes the Secretary of the Navy to explore and develop the naval petroleum reserves. However, it specifies that to place the reserves in production, the Secretary with the approval of the President must find that production is needed for national defense and the production must be authorized by a joint resolution of Congress.

In my view there is a National Defense need for production as evidenced by the fact that nonavailability of petroleum products to the Armed Forces has already necessitated the priority allocation of such products to the Department of Defense under the terms of the Defense Production Act.

However, there are serious legal problems related to placing the naval reserves in production, particularly the one at Elk Hills in California. Some of these problems are detailed on pages 25 and 26 of the committee report on S. 2589. Subsequent to the committee's action in reporting the bill, the administration requested two further amendments to this section of the bill. The purpose of these amendments was to avoid a situation where a windfall profit could accrue to oil companies as a result of a breach by the Federal Government of unit plan contracts covering the Elk Hills Reserve.

Committee counsel's review of these amendments and the contracts disclosed a number of legal problems which require further hearings and investigations to insure that the public interest is properly protected. It is for these reasons that I move to delete section 207(d).

On November 7, the President sent to the House of Representatives and Senate a request for a joint resolution approving production of the reserves in accordance with title 10, United States Code.

I ask unanimous consent that a copy of that request be printed in the RECORD at the conclusion of my remarks, along with certain correspondence.

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

(See exhibit 1.)

Mr. JACKSON. I would urge the Armed Services Committee to take up this matter as soon as possible and to approve the President's request.

I shall work to insure that S. 1586 will be reported from the Interior Committee with provision for expedited exploration of the reserves.

Mr. President, I do not rule out the possibility of using Elk Hill in an emergency. I do feel that we do not have adequate and sufficient information regarding several matters that must be resolved before we authorize this kind of emergency action.

I therefore offer this amendment to strike that provision from the bill. We may well get into the question very shortly again. That may depend upon the necessary clarifications we need to receive before proceeding further.

EXHIBIT 1

THE WHITE HOUSE,
Washington, November 7, 1973.

Hon. JAMES O. EASTAND,
President pro tempore of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a letter from the Acting Secretary of the Navy which provides his finding of the need for increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes. I approve his findings and conclusions and urge adoption of the enclosed proposed joint resolution which would give the approval of the Congress as required by Chapter 641 of Title 10, United States Code.

I request that the Congress act upon this resolution at the earliest possible time.

Sincerely,

RICHARD NIXON.

DEPARTMENT OF THE NAVY,
Washington, D.C. November 6, 1973.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: In accordance with the provisions of Chapter 641 of Title 10, United States Code, there is enclosed my finding that production of petroleum from the Elk Hills Naval Petroleum Reserve is needed for the National Defense, and a proposed joint resolution by which the Congress would give its approval so that production may begin.

I hereby request that you approve my finding and transmit the proposed joint resolution to the Congress.

Sincerely,

JACK L. BOWERS,
Acting Secretary of the Navy.

DEPARTMENT OF THE NAVY,
Washington, D.C.

SECRETARIAL DETERMINATION OF NEED WITH RESPECT TO NAVAL PETROLEUM RESERVE No. 1

Whereas, chapter 641 of title 10, United States Code, authorizes the Secretary of the Navy to determine that the production of naval petroleum reserves is needed for national defense; and

Whereas, the Armed Services of the United States are currently unable to procure on the open market necessary petroleum products to maintain the desired military readiness posture. Present supplies of petroleum are not sufficient, even through mandatory allocation, to meet both the needs of military readiness and essential civilian needs, including those vital to defense. As a consequence, adequate petroleum to meet defense needs cannot be assured from normal sources of supply. In addition and contributing more seriously to the growing deficit in sources of military petroleum supply, certain international events have led to reduced availability from sources outside of the domestic United States. Since the Armed Services normally procure 50% of their needs from these international sources, the military petroleum shortage is even more critical.

Now, therefore, I find that the production of Naval Petroleum Reserve No. 1 is needed for national defense.

In order to authorize production of an amount which will help to insure that the needs of national defense are met, yet not seriously deplete the reserve, it is concluded that the production should be at a rate not to exceed maximum efficient rate in accordance with sound engineering and economic principles. Further, since it is anticipated that other Government agencies will be working aggressively to solve the current problems of energy shortage, the production should continue for a period of one year only. In order to provide for an initial period during which the full production rate can be established, the one year production span should commence 45 days following approval of this Determination of Need by the President and joint resolution of the Congress.

Noting that the Naval Petroleum Reserves are still not fully explored and developed, with the most valuable resources in Naval Petroleum Reserve Number Four almost wholly unexplored, it is further determined that it will be in the interest of the United States to take aggressive action toward such exploration. The Department of the Navy completed a plan in April of 1973 to guide such exploration and development and it is proposed that the first step in implementing this plan be taken concurrently with production of Naval Reserve Number One. To implement this action most directly, it is proposed that the Congress, by the same resolution with which it orders production, order that funds derived from the sale of Naval Petroleum Reserve Number One oil be made available for such exploration and development. All funds received would be applied to this purpose after having first provided for the operations at Naval Petroleum Reserve Number One during the one-year period and providing for facilities necessary to that production and delivery of oil. By this action the Congress can, without using other sources of funds, greatly enhance the capacity and

readiness of the Naval Petroleum and Oil Shale Reserves to respond in the future.

JACK L. BOWERS,
Acting Secretary of the Navy.

Dated: November 6, 1973.

JOINT RESOLUTION

Whereas chapter 641 of title 10, United States Code, directs the Secretary of the Navy, among other things, to use and operate all properties within the naval petroleum reserves as are or may become subject to the control and use by the United States for production of petroleum whenever and to the extent the Secretary, with the approval of the President, finds such production required for the national defense: *Provided, however,* that no petroleum shall be produced pursuant to such a finding unless authorized by the Congress by joint resolution; and Whereas such a finding of the necessity for such production to the extent herein authorized has been made by the Secretary of the Navy in his action dated 6 November 1973 which finding has been approved by the President:

Therefore be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORITY FOR PRODUCTION

That the production of petroleum (including crude oil and associated gas and other hydrocarbons) from Naval Petroleum Reserve No. 1 is hereby authorized at a rate to help ensure that the needs of national defense are met, but not to exceed the maximum efficient rate in accordance with sound engineering and economic principles. Such production (to the extent in excess of that otherwise authorized by chapter 641 of title 10, United States Code) is to commence within forty-five days after the effective date of this Resolution, and to continue for a period of not more than one year after production commences.

DISPOSITION OF PRODUCTION

SEC. 2. The Secretary of the Navy shall dispose of the production herein authorized as provided in chapter 641 of title 10, United States Code, by means of sales, uses, or exchanges effected, determined, or agreed upon after the effective date of this Resolution. As required by said United States Code, all sales shall be effected by competitive bid. The terms of the dispositions shall be so arranged as to give full and equal opportunity for acquisition of the oil by all interested companies, including major and independent oil refineries alike.

DISPOSITION OF RECEIPTS

SEC. 3. (a) There is hereby established on the books of the Treasury Department the Naval Petroleum Reserve Account. This account shall be administered by the Secretary of the Navy under such regulations as the Secretary of Defense may prescribe. Into such account there shall be transferred or credited during the period of increased production authorized by this Act or as may be hereafter authorized (1) unobligated balances of appropriations made available to the Department of the Navy for fiscal year 1974, for exploration, prospecting, conservation, development, use, and operation of the naval petroleum and oil shale reserves, (2) all proceeds realized (i) under chapter 641 of title 10, United States Code, from the sale of petroleum or refined products, oil and gas products, including royalty products, and (ii) the net proceeds realized from sales within the Department of Defense of refined petroleum products accruing to the benefit of the Department of Defense as the result of exchanges, and, (3) such funds as may be appropriated for the Naval Petroleum Reserve Account, to remain available until expended.

(b) Funds available in the Naval Petroleum Reserve Account shall be available for the expenses of: (1) production, including preparation for production, as authorized by this resolution and as may hereafter be authorized, (2) all capital costs necessary for facilities both within and outside the reserve incident to production and delivery of crude petroleum, and (3) exploration, prospecting, conservation, development, use, and operation of the naval petroleum and oil shale reserves as authorized by chapter 641 of title 10, United States Code.

Mr. FANNIN. I support the amendment of the Senator from Washington. I concur in the statement that this is a necessary step to take. We will go forward and determine the proper action with regard to Elk Hill, but the Jackson amendment is essential at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington. [Putting the question.]

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the Bayh amendment which was temporarily set aside.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to neither side.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. 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. JOHNSTON. Mr. President, I send an amendment to the desk and ask that it be stated.

Mr. JACKSON. Mr. President, I ask unanimous consent that the pending amendment, the Bayh amendment, be temporarily laid aside so that the Senator from Louisiana may offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the Johnston amendment.

The assistant legislative clerk proceeded to state the amendment.

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, and the amendment will be printed in full in the RECORD.

The amendment is as follows:

On page 34, after line 2, insert the following new section:

GUARANTEE OF LOANS TO INDEPENDENT REFINERS FOR NEW OR EXPANDED FACILITIES

SEC. 314. (a) Subject to the provisions of this section, the Secretary of the Interior (hereafter in this section referred to as the "Secretary") is authorized to guarantee the repayment of the principal and interest of loans made to independent refiners to enable them to construct or acquire new refining facilities or expanded refining facilities.

(b) For purposes of this section, the term "independent refiner" means a refiner who (1) obtained, directly or indirectly, in the calendar quarter which ended immediately prior to the date of enactment of this Act, more than 70 per centum of his refinery input of domestic crude oil (or 70 per centum of his refinery input of domestic and imported crude oil) from producers who do not control, are not controlled by, and are not under common control with, such refiner, and (2) marketed or distributed in such quarter and continues to market or distribute a substantial volume of gasoline refined by him through branded independent marketers or nonbranded independent marketers. Such term also means a person who does not have any refining facilities, and who (3) does not control, is not controlled by, or under common control with any producer or producers of crude oil, and (4) establishes to the satisfaction of the Secretary that a substantial volume of petroleum products refined by him will be marketed or distributed through branded independent marketers or nonbranded independent marketers. For purposes of this subsection, the terms "branded independent marketers" and "nonbranded independent marketers" have the meanings assigned to them by section 3 of the Emergency Petroleum Allocation Act of 1973.

(c) Subject to the provisions of this section and to such other terms and conditions as the Secretary may prescribe, upon application made by an independent refiner, the Secretary is authorized to guarantee repayment of all or any portion of the principal and interest on a loan to be made to such independent refiner the proceeds of which are to be used for the construction or acquisition of new refining facilities, including the expansion of existing refining facilities. In order to qualify for such guarantee, an applicant must establish to the satisfaction of the Secretary that—

(1) the new refining facilities will increase his refining capacity and will not replace existing refining facilities of another refiner, and

(2) the applicant has been unable, after reasonable good faith efforts, to obtain assurance of supplies of crude oil sufficient to utilize the full capacity of the new refining facilities, together with his existing refining facilities (if any).

Any guarantee under this subsection shall apply only with respect to defaults in payment of principal or interest which are attributable, as specified by the Secretary at the time of making the guarantee, to the inability of the applicant to obtain supplies of crude oil sufficient to utilize 50% of the full capacity of the new refining facilities, together with his existing refining facilities (if any).

(d) No guarantee shall be made under this section unless the Secretary has determined that the facilities involved represent an acceptable financial risk to the United Sattes, taking into consideration (1) the financial and security interests of the United States, and (2) the public purposes of this section.

(e) The Secretary shall take such steps as he considers reasonable to assure that loans guaranteed under this section will—

(1) be made by investors approved by, or meeting requirements prescribed by, the Secretary, or if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary,

(2) bear interest at a rate satisfactory to the Secretary,

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary, and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United Sates, including any provisions deemed appropriate by the Secretary relating to subrogation, liens, and releases of liens, payment of taxes, or other matters.

(f) The total liability of the United States on loans which the Secretary may guarantee under this section shall not exceed $1,000,000,000. Within such total amount, the

Secretary shall guarantee loans under this section so as to—

(1) provide the maximum amount of energy by new or expanded refining facilities of independent refiners,

(2) achieve equitable distribution of such new refining facilities among the various geographic regions of the United States, and

(3) limit the liability of the United States with respect to each loan guaranteed pursuant hereto to 10 per centum of the principal amount of each such loan.

Renumber the succeeding sections in title III.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that my amendment be voted on immediately prior to the vote on the bill at 5 o'clock.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, this amendment addresses a very serious problem that we have in the United States today—that is, lack of refining capacity.

As all of the commentators and all of the experts in the energy field have stated, we have had very little—indeed, virtually no construction and no planning—of new refining capacity in this country in the last 5 or 6 years.

At present the United States is trying to encourage the building of additional refineries. However, the difficulty is that new refineries cannot be assured of a source of crude oil. The domestic supplies of crude oil are extremely limited. Most of the domestic crude supplies are already under contract to the big oil companies. As a result, it is very difficult, if not impossible, for an independent refiner to be sufficiently assured of a source of crude oil so that he can proceed to invest the major amounts of money that it takes to build or expand refineries.

During the debate and consideration of the mandatory allocation bill, attempts were made to put in the bill a provision to guarantee that new refineries would be allocated a sufficient amount of crude oil on a mandatory basis so as to allow them to have the capacity to operate profitably. However, there was objection to such a mandatory allocation of crude oil. As some owners of crude oil and refiners of crude oil pointed out, in order to mandate an allocation of crude oil to a new refiner, it would have been necessary that crude oil be taken from somebody who already had that crude oil—something that in the view of many was totally unfair.

Accordingly, there is no way, under the present law, that a prospective refiner can be assured of a source of crude oil adequate to insure that a refinery could be built and operate at a profit.

What this amendment, therefore, would do is provide that, with respect to independent refiners—not the huge conglomerates, but independent refiners, which are carefully defined in my amendment to include only those refiners who do not have a source of crude oil themselves—that the Secretary may guarantee, subject to conditions that protect the rights of the Federal Government up to 10 percent of the amount of the loan that is required in order to build a new or expanded refinery, if it appears to the Secretary's satisfaction that such a refiner is unable to obtain assurances of an adequate supply of crude oil. In the event a refiner obtains a guaranteed loan and he then is unable, in due course, to obtain at least 50 percent of the capacity of his refinery, the guarantee becomes operative to the extent necessary to cover principal and interest attributable to the period in which the refiner is unable to obtain crude sufficient to meet 50 percent of the refinery's capacity. In no event may such principal and interest payments exceed 10 percent of the principal amount of the loan, however.

Mr. President, I submit that this amendment is greatly needed as a method to encourage the building of expanded and new refineries. The idea for this amendment, quite frankly, came from the experience that a prospective refiner is having in Louisiana. With plans all laid to build a refinery, the prospective refiner found, on account of the Middle Eastern cutoff, that it was totally impossible to get any assurance of any supply of crude oil. In order to proceed with construction of this much-needed refinery, the prospective refiner either had to contract to spend tremendous sums of money without any assurance at all of a source of crude, or stop the building of the refinery and thus lose the right to take delivery of equipment that will take a substantial period of time to obtain if it must be reordered.

This amendment is in response to that kind of situation—a situation involving the independent refiner, which is the only real sources of gasoline and other products to the independent distributor.

Mr. President, I submit that this approach contained in my amendment is badly needed in order to insure the building of new refineries by independent refiners.

The PRESIDING OFFICER (Mr. NUNN). The Senate will be in order. The Senator is entitled to be heard.

Mr. JOHNSTON. Mr. President, I shall be available for any questions on this amendment this afternoon. It will come up for a vote immediately prior to the 5 o'clock vote.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

AMENDMENT NO. 686 AS MODIFIED

Mr. MATHIAS. Mr. President, I ask unanimous consent that amendment No. 686, which was the subject of debate this morning, may be modified at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I send to the desk the modified amendment.

Mr. MATHIAS amendment (No. 686), as modified, is as follows:

On page 30, beginning with line 21, strike out all through line 20 on page 31, and insert in lieu thereof the following:

ADMINISTRATIVE PROCEDURE IN ORDER TO INSURE ACCOUNTABILITY AND DUE PROCESS

SEC. 309. (a) The functions exercised under this Act are excluded from the operation of subchapter 2 of chapter 5, and chapter 7 of title V, United States Code, except as to the requirements of sections 552, 555(c) and (e), and 702 and exception as to the requirements of section 553 as modified by subsection (b) of this section.

(b) All rules, regulations, or orders promulgated pursuant to this Act shall be subject to the provisions of section 553 of title V of the United States Code except that all rules, regulations, or orders promulgated must provide for the following:

(1) Notice and opportunity to comment which shall be achieved by publication of all proposed general rules, regulations, or orders issued pursuant to this Act in the Federal Register. In each case, a minimum of five days following such publication shall be provided for opportunity to comment.

(2) Public notice of all rules, regulations, or orders promulgated by a State pursuant to section 203 of this Act shall be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) Any agency authorized by the President or by this Act to issue rules, regulations, or orders under sections 203, 204, 205, 206, 207, and 312 of this Act shall hold public hearings on those rules, regulations, or orders which the agency determines in its discretion are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than sixty days after the implementation of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

Any agency authorized by the President or by this Act to issue rules, regulations, or orders may not waive any of the requirements set forth in this subsection except that the requirements set forth in subsection (b)(1) as to time of notice and opportunity to comment may be waived where strict compliance is found to cause grievous injury to the operation of the program and such findings are set out in detail in the rules, regulations, or orders.

(c)(1) In addition to the requirements of section 552 of title V of the United States Code, any agency authorized by the President or by this Act to issue rules, regulations, or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule, regulation, or order with such modifications as are necessary to insure confidentiality protected under the Freedom of Information Act. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules, regulations, or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under the Freedom of Information Act.

(2) Any agency authorized by the President to issue rules, regulations, or orders under this Act shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The

agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

(d) All proposals which the President submits for the approval of the Congress pursuant to section 301 of this Act and subsequent amendments and modifications thereto for the emergency fuel shortage contingency programs provided for in title II of this Act and for implementing such programs shall include the following:

(1) findings of fact and a specific statement explaining the rationale for each provision contained in such proposals,

(2) proposed procedures for the removal of the restrictions imposed by such plan or program, and

(3) a schedule for implementing the provisions of section 552 of title V of the United States Code.

Mr. MATHIAS. I ask for the yeas and nays on the amendment as modified.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I asked unanimous consent previously that it be in order, prior to the voting, to order the yeas and nays on all amendments for which there has been a request for the yeas and nays. I ask unanimous consent that it now be in order to order the yeas and nays on all amendments previously submitted and for which the yeas and nays have been requested.

The PRESIDING OFFICER. That unanimous consent has already been granted.

Mr. JACKSON. I ask for the yeas and nays.

The yeas and nays were ordered on the several amendments, as previously agreed to by unanimous consent.

Mr. MANSFIELD. Mr. President, as I understand, the first vote will take the usual 15 minutes, but all votes thereafter will be accomplished in 10 minutes?

The PRESIDING OFFICER. The Senator is correct; there is an order to that effect.

Mr. RIBICOFF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RIBICOFF. Is amendment 678 included in that order for the yeas and nays?

The PRESIDING OFFICER. Amendment 678 is included.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Bayh amendment be set aside until after the completion of the rollcall votes, and that it be the pending order of business immediately thereafter.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. I yield.

Mr. BARTLETT. I would like to ask the distinguished Senator from Louisiana concerning the amendment he just presented, am I correct in understanding that this country imports about 3 million more barrels of crude oil than we have refinery capacity to refine?

Mr. JOHNSTON. That is correct.

Mr. BARTLETT. And am I also correct that we have had this same problem for a long time that the Senator's amendment proposes to remedy, of not having an assured supply of crude oil, that even though we had an abundance of crude oil there was no way that a refiner could be satisfied of knowing that he would have sufficient throughput through his refinery to keep the refinery fully busy, so that he could amortize his investment? Is that correct?

Mr. JOHNSTON. That is correct. It is also correct that the National Petroleum Council has estimated that by 1975 we will require increased refinery capacity of 4.8 million barrels per day to meet our domestic needs. In other words, by 1975 we will need additional refineries, which we do not now have, capable of refining 4.8 million barrels per day. It is imperative that we do something now to deal with what is obviously going to be an even more serious refinery shortage just a few years from now. My amendment would, I believe, provide significant assistance in solving that problem.

Mr. BARTLETT. Am I also correct that this will be beneficial to the entire country, and not necessarily just to one geographical region of the country?

Mr. JOHNSTON. Unquestionably that is true. As a matter of fact, it will probably be more helpful outside our section of the country, because Louisiana and Texas right now are the leading refining States of the country. Refining capacity in the Northeast is virtually nonexistent. At least, I would say, in the last 5 or 6 years not a single new refinery has been started in the Northeast, and this country badly needs new refineries in those areas in order to meet the energy demands of the 1970's and thereafter.

Mr. BARTLETT. Mr. President, I congratulate the distinguished Senator from Louisiana for this farsighted amendment. I support it, and urge our colleagues to do likewise.

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

Mr. JOHNSTON. I yield.

Mr. GRIFFIN. Mr. President, because of the unusual nature of the voting that will take place, with 9 or 10 votes to occur and only 10 minutes per vote, I wonder, for the benefit of Senators who have not been in the Chamber, if there could be stated now the order in which these votes will occur, and what the questions will be.

The PRESIDING OFFICER (Mr. NUNN). The first question will be on the motion to table amendment No. 656, the Helms amendment. If that fails, the next vote will be on the amendment itself. Then there will be a vote on the Ribicoff amendment (No. 678). Next there will be a vote on the Hansen amendment (No. 682), followed by Fannin amendments (Nos. 690, 691, 692, 693, and 671), followed by a vote on the Jackson amendment (No. 685).

Mr. GRIFFIN. Will the Chair read more slowly?

The PRESIDING OFFICER. Would the Senator like the Chair to start over?

Mr. GRIFFIN. Yes.

The PRESIDING OFFICER. First the motion to table the Helms amendment (No. 656). Then if that fails, the vote on the amendment itself. Second, the Ribicoff amendment (No. 678). That could be the third vote, depending on the outcome of the motion to table the Helms amendment.

Next would be the Hansen amendment (No. 682).

Next would be five amendments by Senator FANNIN, as follows: Amendments Nos. 690, 691, 692, 693, and 671.

Next would be a vote on the Jackson amendment (No. 685) to be followed by the vote on the Mathias amendment (No. 686) as modified.

Mr. GRIFFIN. I thank the Chair.

The PRESIDING OFFICER. The hour of 1 o'clock having arrived, the Senate will now proceed to vote on the motion to table amendment No. 656 of the Senator from North Carolina (Mr. HELMS).

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

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

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

I further announce that, if present and voting the Senator from Alabama (Mr. ALLEN) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. McCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 48, nays 39, as follows:

[No. 493 Leg.]

YEAS—48

Abourezk	Hatfield	Packwood
Bayh	Hathaway	Pastore
Bellmon	Hughes	Pearson
Biden	Humphrey	Pell
Brooke	Inouye	Randolph
Burdick	Jackson	Ribicoff
Cannon	Javits	Schweiker
Case	Magnuson	Scott, Hugh
Church	Mansfield	Stafford
Clark	Mathias	Stevens
Cranston	McGee	Stevenson
Eagleton	McGovern	Symington
Gravel	McIntyre	Taft
Hart	Montoya	Tunney
Hartke	Moss	Weicker
Haskell	Muskie	Williams

NAYS—39

Aiken	Domenici	Long
Bartlett	Dominick	McClellan
Beall	Eastland	Metcalf
Bennett	Ervin	Nunn
Bentsen	Fannin	Proxmire
Bible	Fulbright	Roth
Brock	Goldwater	Saxbe
Buckley	Griffin	Scott, William L.
Byrd, Harry F., Jr.	Gurney	Talmadge
Byrd, Robert C.	Hansen	Thurmond
Chiles	Helms	Tower
Cook	Hollings	Young
Dole	Hruska	
	Johnston	

NOT VOTING—13

Allen	Huddleston	Percy
Baker	Kennedy	Sparkman
Cotton	McClure	Stennis
Curtis	Mondale	
Fong	Nelson	

So the motion to table Mr. HELMS' amendment (No. 656) was agreed to.

The PRESIDING OFFICER. Under the previous order, the question occurs on the amendment by the Senator from Connecticut (Mr. RIBICOFF). The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

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

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 73, nays 13, as follows:

[No. 494 Leg.]

YEAS—73

Abourezk	Dominick	Magnuson
Bayh	Eagleton	Mansfield
Beall	Eastland	Mathias
Bentsen	Ervin	McClellan
Bible	Gravel	McGee
Biden	Griffin	McGovern
Brooke	Gurney	McIntyre
Buckley	Hansen	Metcalf
Burdick	Hart	Montoya
Byrd, Harry F., Jr.	Hartke	Moss
Byrd, Robert C.	Haskell	Muskie
Cannon	Hatfield	Nunn
Case	Hathaway	Packwood
Chiles	Hollings	Pastore
Church	Hughes	Pearson
Clark	Humphrey	Pell
Cook	Inouye	Proxmire
Cranston	Jackson	Randolph
Dole	Javits	Ribicoff
Domenici	Johnston	Roth
	Long	Saxbe
Schweiker	Symington	Weicker
Scott, Hugh	Taft	Williams
Stafford	Talmadge	Young
Stevenson	Tunney	

NAYS—13

Aiken	Goldwater	Thurmond
Bartlett	Helms	Tower
Bellmon	Hruska	
Bennett	Scott, William L.	
Brock	Stevens	
Fannin		

NOT VOTING—14

Allen	Fulbright	Nelson
Baker	Huddleston	Percy
Cotton	Kennedy	Sparkman
Curtis	McClure	Stennis
Fong	Mondale	

So Mr. RIBICOFF's amendment was agreed to.

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to amendment No. 682, offered by the Senator from Wyoming (Mr. HANSEN). The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) and the Senator from Massachusetts (Mr. KENNEDY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 21, nays 64, as follows:

[No. 495 Leg.]

YEAS—21

Bartlett	Goldwater	Scott, William L.
Bellmon	Griffin	Stevens
Bennett	Hansen	Thurmond
Brock	Helms	Tower
Cook	Hruska	Young
Dominick	Johnston	
Eastland	Long	
Fannin	McClellan	

NAYS—64

Abourezk	Biden	Byrd, Robert C.
Aiken	Brooke	Cannon
Bayh	Buckley	Case
Beall	Burdick	Chiles
Bentsen	Byrd, Harry F., Jr.	Church
Bible		Clark
Cranston	Jackson	Pell
Dole	Javits	Proxmire
Domenici	Magnuson	Randolph
Eagleton	Mansfield	Ribicoff
Ervin	Mathias	Roth
Gravel	McGee	Saxbe
Gurney	McGovern	Schweiker
Hart	McIntyre	Scott, Hugh
Hartke	Metcalf	Stafford
Haskell	Montoya	Symington
Hatfield	Moss	Taft
Hathaway	Muskie	Talmadge
Hollings	Nunn	Tunney
Hughes	Packwood	Weicker
Humphrey	Pastore	Williams
Inouye	Pearson	

NOT VOTING—15

Allen	Fulbright	Nelson
Baker	Huddleston	Percy
Cotton	Kennedy	Sparkman
Curtis	McClure	Stennis
Fong	Mondale	Stevenson

So Mr. HANSEN's amendment (No. 682) was rejected.

The PRESIDING OFFICER. Under the previous order, the vote now occurs on the amendment of the Senator from Arizona (Mr. FANNIN) No. 690. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts) (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 25, nays 61, as follows:

[No. 496 Leg.]

YEAS—25

Bartlett	Fannin	McClellan
Beall	Goldwater	Pearson
Bellmon	Griffin	Saxbe
Bennett	Gurney	Stevens
Brock	Hansen	Thurmond
Buckley	Hatfield	Tower
Dole	Helms	Weicker
Domenici	Hruska	
Eastland	Long	

NAYS—61

Abourezk	Burdick	Church
Aiken	Byrd, Harry F., Jr.	Clark
Bayh	Byrd, Robert C.	Cook
Bentsen	Cannon	Cranston
Bible	Case	Dominick
Biden	Chiles	Eagleton
Brooke		Ervin

Gravel	Mathias	Ribicoff
Hart	McGee	Roth
Hartke	McGovern	Schweiker
Haskell	McIntyre	Scott, Hugh
Hathaway	Metcalf	Scott, William L.
Hollings	Montoya	Stafford
Hughes	Moss	Stevenson
Humphrey	Muskie	Symington
Inouye	Nunn	Taft
Jackson	Packwood	Talmadge
Javits	Pastore	Tunney
Johnston	Pell	Williams
Magnuson	Proxmire	Young
Mansfield	Randolph	

NOT VOTING—14

Allen	Fulbright	Nelson
Baker	Huddleston	Percy
Cotton	Kennedy	Sparkman
Curtis	McClure	Stennis
Fong	Mondale	

So Mr. FANNIN's amendment was rejected.

The PRESIDING OFFICER (Mr. JOHNSTON). Under the previous order, the question is on agreeing to the amendment No. 691 of the Senator from Arizona (Mr. FANNIN). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 27, nays 60, as follows:

[No. 497 Leg.]

YEAS—27

Bartlett	Gurney	Scott, William L.
Bellmon	Hansen	Stafford
Bennett	Haskell	Taft
Biden	Hathaway	Thurmond
Brock	Helms	Tower
Buckley	Hruska	Weicker
Clark	McIntyre	Young
Domenici	Proxmire	
Fannin	Roth	
Griffin	Saxbe	

NAYS—60

Abourezk	Byrd, Harry F., Jr.	Cranston
Aiken	Byrd, Robert C.	Dole
Bayh	Cannon	Dominick
Beall	Case	Eagleton
Bentsen	Chiles	Eastland
Bible	Church	Ervin
Brooke	Cook	Goldwater
Burdick		Gravel
Hart	Mathias	Randolph
Hartke	McClellan	Ribicoff
Hatfield	McGee	Schweiker
Hollings	McGovern	Scott, Hugh
Hughes	Metcalf	Stennis
Humphrey	Montoya	Stevens
Inouye	Moss	Stevenson
Jackson	Muskie	Symington
Javits	Nunn	Talmadge
Johnston	Packwood	Tunney
Long	Pastore	Williams
Magnuson	Pearson	
Mansfield	Pell	

NOT VOTING—13

Allen	Fulbright	Nelson
Baker	Huddleston	Percy
Cotton	Kennedy	Sparkman
Curtis	McClure	
Fong	Mondale	

So Mr. FANNIN's amendment (No. 691) was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. HELMS). Under the previous order, the question now occurs on agreeing to amendment No. 692 of the Senator from Arizona (Mr. FANNIN).

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

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 24, nays 63, as follows:

[No. 498 Leg.]

YEAS—24

Bartlett	Fannin	Roth
Bellmon	Goldwater	Saxbe
Bennett	Griffin	Scott, William L.
Brock	Gurney	Stevens
Buckley	Hansen	Thurmond
Byrd, Harry F., Jr.	Hatfield	Tower
Church	Helms	Young
Domenici	Hruska	
	McClellan	

NAYS—63

Abourezk	Gravel	Moss
Aiken	Hart	Muskie
Bayh	Hartke	Nunn
Beall	Haskell	Packwood
Bentsen	Hathaway	Pastore
Bible	Hollings	Pearson
Biden	Hughes	Pell
Brooke	Humphrey	Proxmire
Burdick	Inouye	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Cannon	Javits	Schweiker
Case	Johnston	Scott, Hugh
Chiles	Long	Stafford
Clark	Magnuson	Stennis
Cook	Mansfield	Stevenson
Cranston	Mathias	Symington
Dole	McGee	Taft
Dominick	McGovern	Talmadge
Eagleton	McIntyre	Tunney
Eastland	Metcalf	Weicker
Ervin	Montoya	Williams

NOT VOTING—13

Allen	Fulbright	Nelson
Baker	Huddleston	Percy
Cotton	Kennedy	Sparkman
Curtis	McClure	
Fong	Mondale	

So Mr. FANNIN's amendment (No. 692) was rejected.

The PRESIDING OFFICER. Under the previous order, the question now is on the amendment of the Senator from Arizona, amendment No. 693. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS), are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) and the Senator from Illinois (Mr. PERCY) would each vote "nay."

The result was announced—yeas 17, nays 69, as follows:

[No. 499 Leg.]

YEAS—17

Bartlett	Fannin	Hruska
Bellmon	Goldwater	Saxbe
Bennett	Griffin	Scott, William L.
Brock	Gurney	Thurmond
Dominick	Hansen	Tower
Eastland	Helms	

NAYS—69

Abourezk	Bible	Byrd, Harry F., Jr.
Aiken	Biden	Byrd, Robert C.
Bayh	Brooke	Cannon
Beall	Buckley	Case
Bentsen	Burdick	

Chiles	Jackson	Pell
Church	Javits	Proxmire
Clark	Johnston	Randolph
Cook	Long	Ribicoff
Cranston	Magnuson	Roth
Dole	Mansfield	Schweiker
Domenici	Mathias	Scott, Hugh
Eagleton	McClellan	Stafford
Ervin	McGee	Stevens
Gravel	McGovern	Stevenson
Hart	McIntyre	Symington
Hartke	Metcalf	Taft
Haskell	Montoya	Talmadge
Hatfield	Moss	Tunney
Hathaway	Muskie	Weicker
Hollings	Nunn	Williams
Hughes	Packwood	Young
Humphrey	Pastore	
Inouye	Pearson	

NOT VOTING—14

Allen	Fulbright	Nelson
Baker	Huddleston	Percy
Cotton	Kennedy	Sparkman
Curtis	McClure	Stennis
Fong	Mondale	

So Mr. FANNIN's amendment (No. 693) was rejected.

Mr. MOSS. Mr. President, I ask unanimous consent that Michael Pertschuk may have the privilege of the floor during the debate on S. 2589 and votes.

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

Mr. BAYH. Mr. President, I make the same request for Carl Lester.

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

Under the previous order the question now occurs on amendment No. 671 of the Senator from Arizona. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) and the Senator from Illinois (Mr. PERCY) would each vote "nay."

The result was announced—yeas 27, nays 59, as follows:

[No. 500 Leg.]

YEAS—27

Bartlett	Byrd, Harry F., Jr.	Dominick
Beall	Cook	Fannin
Bennett	Dole	Goldwater
Brock	Domenici	Griffin
Buckley		Gurney
Hansen	Muskie	Taft
Helms	Pearson	Thurmond
Hruska	Roth	Tower
Javits	Saxbe	
Mathias	Stevenson	

NAYS—59

Abourezk	Hart	Nunn
Aiken	Hartke	Packwood
Bayh	Haskell	Pastore
Bellmon	Hatfield	Pell
Bentsen	Hathaway	Proxmire
Bible	Hollings	Randolph
Biden	Hughes	Ribicoff
Brooke	Humphrey	Schweiker
Burdick	Inouye	Scott, Hugh
Byrd, Robert C.	Jackson	Scott, William L.
Cannon	Johnston	Stafford
Case	Magnuson	Stennis
Chiles	Mansfield	Stevens
Church	McClellan	Symington
Clark	McGee	Talmadge
Cranston	McGovern	Tunney
Eagleton	McIntyre	Weicker
Eastland	Metcalf	Williams
Ervin	Montoya	Young
Gravel	Moss	

NOT VOTING—14

Allen	Fulbright	Mondale
Baker	Huddleston	Nelson
Cotton	Kennedy	Percy
Curtis	Long	Sparkman
Fong	McClure	

So Mr. FANNIN's amendment (No. 671) was rejected.

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 685 by the Senator from Washington. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS), are necessarily absent.

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

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

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS), and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 85, nays 1, as follows:

[No. 501 Leg.]

YEAS—85

Abourezk	Brock	Church
Aiken	Brooke	Clark
Bartlett	Buckley	Cook
Bayh	Burdick	Cranston
Beall	Byrd, Harry F., Jr.	Dole
Bellmon	Byrd, Robert C.	Domenici
Bennett	Cannon	Dominick
Bentsen	Case	Eagleton
Bible	Chiles	Eastland
Biden		Ervin
Fannin	Johnston	Ribicoff
Goldwater	Long	Roth
Gravel	Magnuson	Saxbe
Griffin	Mansfield	Schweiker
Gurney	Mathias	Scott, Hugh
Hansen	McClellan	Scott, William L.
Hart	McGee	Stafford
Hartke	McGovern	Stevens
Haskell	Metcalf	Stevenson
Hatfield	Montoya	Symington
Hathaway	Moss	Taft
Helms	Muskie	Talmadge
Hollings	Nunn	Thurmond
Hruska	Packwood	Tower
Hughes	Pastore	Tunney
Humphrey	Pearson	Weicker
Inouye	Pell	Williams
Jackson	Proxmire	Young
Javits	Randolph	

NAYS—1

McIntyre

NOT VOTING—14

Allen	Fulbright	Nelson
Baker	Huddleston	Percy
Cotton	Kennedy	Sparkman
Curtis	McClure	Stennis
Fong	Mondale	

So Mr. JACKSON's amendment (No. 685) was agreed to.

The PRESIDING OFFICER (Mr. HELMS). Under the previous order, the question occurs on the amendment of the Senator from Maryland, amendment No. 686, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Mississippi (Mr. STENNIS), are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from Massachusetts (Mr. KENNEDY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 79, nays 7, as follows:

[No. 502 Leg.]

YEAS—79

Abourezk	Brooke	Chiles
Aiken	Buckley	Church
Bartlett	Burdick	Clark
Bayh	Byrd, Harry F., Jr.	Cook
Beall	Byrd, Robert C.	Cranston
Bentsen	Cannon	Domenici
Bible	Case	Dominick
Biden		Eagleton

Eastland	Johnston	Randolph
Ervin	Long	Ribicoff
Fannin	Magnuson	Roth
Gravel	Mansfield	Saxbe
Griffin	Mathias	Schweiker
Gurney	McClellan	Scott, Hugh
Hansen	McGee	Stafford
Hart	McGovern	Stevens
Hartke	McIntyre	Stevenson
Haskell	Metcalf	Symington
Hatfield	Montoya	Taft
Hathaway	Moss	Talmadge
Helms	Muskie	Thurmond
Hollings	Nunn	Tower
Hughes	Packwood	Tunney
Humphrey	Pastore	Weicker
Inouye	Pearson	Williams
Jackson	Pell	Young
Javits	Proxmire	

NAYS—7

Bellmon	Dole	Scott,
Bennett	Goldwater	William L.
Brock	Hruska	

NOT VOTING—14

Allen	Fulbright	Nelson
Baker	Huddleston	Percy
Cotton	Kennedy	Sparkman
Curtis	McClure	Stennis
Fong	Mondale	

So Mr. MATHIAS' amendment (No. 686), as modified, was agreed to.

AMENDMENT NO. 689

The PRESIDING OFFICER (Mr. HELMS). Pursuant to the previous order, the question is on agreeing to the amendment (No. 689) of the Senator from Indiana (Mr. BAYH), which the clerk will state.

The assistant legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. What is the time limitation?

The PRESIDING OFFICER. 10 minutes, 5 minutes on each side.

Mr. BAYH. Mr. President, I think perhaps that the most efficient way to discuss the thrust of my amendment is just to read it. Normally we ask the clerk to dispense with the reading of the amendment, but I would like to read it to the Senate because it makes very clear what we are trying to do:

On page 17, line 18,—

Which is immediately following the reference to speed limits—

change the period at the end thereof to a colon and add the following: *"Provided, however*, That any such reduction shall not be recommended or made effective for commercial motor vehicles operating in interstate commerce except upon the basis of a finding by the Secretary of Transportation that such reduction will in fact lead to fuel savings for specific classes and weights of vehicles, and that the savings to be realized therefrom will, in the judgment of the Secretary of Transportation that such reduction will in fact lead to fuel savings for specific classes and weights of vehicles, and that the savings to be realized therefrom will, in the judgment of the Secretary, be of sufficient magnitude to compensate for the economic disruption attendant upon changes in routing, scheduling, and working conditions necessitated by the imposition of a lower speed limit".

We have heard and read a great deal about inconvenience because of certain laws relative to the amount of time people can drive commercial vehicles, the scheduling and routing, and that kind of business.

This amendment goes primarily to the whole thrust of the bill: Will lowering the speed limit result in a lesser consumption of fuel?

It ought to be relatively simple for the Secretary to make an assessment, either by looking at studies that have already been made or by making one on his own. If lowering the speed of a certain commercial vehicle will indeed result in less consumption of gasoline, then lower it. If not, why go through the cosmetics and the inconvenience which will result if that is not the case?

I had hoped I could prevail on my distinguished colleague the floor manager of the bill (Mr. JACKSON) to accept the amendment, but after discussing it with him and his staff, I think that is perhaps too optimistic a conclusion to reach at this time.

Mr. JACKSON. Mr. President, I regret that I cannot agree with my colleague. I would like to accept the amendment, but we would be making a specific exemption here in connection with commercial trucks.

I point out that a farmer who operates a truck across State lines for his own purposes certainly would not have a commercial truck, and I would prefer that this sort of thing be handled by regulation.

On page 18 of the committee report accompanying this measure, we recognize this need with some explanatory language. Let me read the following:

The committee recognizes that certain conservation measures may affect various sectors of the economy in different ways. For speed limit reductions may affect commercial trucking more seriously than private commuters.

I recognize that fact.

Continuing reading:

These factors should be taken into account in developing programs pursuant to this Act. However, such inconveniences must be weighed against the fuel savings to be gained. A reduction of maximum driving speeds to 50 miles per hour, for example, would result in fuel savings equivalent to 250,000 barrels per day.

Now, Mr. President, the sole question for the Senate to decide is whether we want to spring out of that limitation which we ask the President to impose and say that for commercial motor vehicles—that is the exact language—we will make an exception. It seems to me this matter should be left to regulation. We do have serious transportation problems in the trucking area. I would hope they can work it out. But I would hate to turn around and make a specific exemption for this particular mode of transportation. I would prefer that the matter be left to the executive branch to work out the details.

There are other situations that will arise where there is probably justification for going beyond 50 miles an hour. In the trucking industry there is a special problem, but I would not want to make a statutory exemption there.

Mr. CASE. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I yield.

Mr. CASE. Is not the safety problem also involved here?

Mr. JACKSON. The Senator is correct.

Mr. CASE. That is a serious matter which suggests that it should be left to the discretion of the administration.

Mr. JACKSON. In Germany, by the way—not that that is a precedent—they have just reduced their speed limit on trucks over there, my staff informs me, and as a result the accident rate has been reduced by 30 percent.

We had this matter up in committee. An amendment was offered in committee. It was voted down. It is up to the Senate to decide whether we will start springing out areas for exemption. I would rather delegate this broad authority to the executive branch to work out what modes of transportation should be given a different speed limit than others, if it can be justified. But my own feeling is, I do not have the expertise in this area. I would oppose the amendment.

Mr. BAYH. I should like to make it very clear that we are not asking for an exemption—not at all. What we are saying is that the purpose of the bill is to conserve fuel, so that if there are certain classes of vehicles which because of size, gear ratio, and so forth, can operate more efficiently and use less fuel at 55 miles an hour than at 50 miles an hour, why not let them operate at 55 miles an hour? Why make them operate at 50 miles an hour. I do not have the expertise to make that judgment. I am willing to let the Secretary make that judgment, but before he does so, I want Congress to say that he has to make a finding of fact that we are actually saving fuel. I expect that we will find we will save. But I do not know. There have been some studies made about some vehicles, which would lead one to believe that 55 miles or 60 miles an hour will save fuel rather than going down to 50 miles an hour.

I say, let us find out the facts before we go through and lower the speed limit.

Mr. FANNIN. Mr. President, some buses traveling 50 miles an hour would use more gas than they would at a speed of 60 miles an hour in accordance with a report I have from a very reliable source; namely, the Greyhound Bus Co. This is the best illustration I can give—their buses do not even go into high gear until 48 to 52 miles an hour, so it would be difficult for them to travel in a lower gear. It would be self-defeating to say that a large bus or a large truck must travel at speeds of no more than 50 miles an hour.

Some people have suggested that the transmission should be altered, but that seems like a very complex matter. I think that the Senator from Indiana (Mr. BAYH) has made a very good proposal. It would require that a study and a determination be made, which seems very vital to what we are trying to do here. If a bus can be more efficient at 60 miles an hour, it should be permitted to travel 60 miles an hour. Concerning safety, they have one of the finest safety records in the country. In fact, professional drivers have the best safety records of any drivers in the country.

Mr. President, as I just pointed out, authorities on bus transportation have informed me that a 50-mile-per-hour

speed limit will be self-defeating in trying to relieve the energy shortage.

A bus traveling at 50 miles per hour is actually burning fuel at a higher rate than a bus going 60 miles per hour.

At the lower speed of just under 50 a bus is still in third gear. It does not go into high gear until it is going 50 to 55 mi/h. so at the slower speed the motor is lugging and operating inefficiently.

Some people have suggested that the buses could be altered. The problem here, as I understand it, is that this would require changing the rear axle ratios in every bus. This would be expensive and, I am told, it would be impossible because there are not enough parts available to make a modification. At any rate, that is not the answer.

The immediate problem of the bus companies is one of scheduling and capacity.

At least one State already has lowered the speed limit on its major highway and others appear ready to do the same.

Suddenly bus schedules are thrown out of kilter. Bus riders will find that they can no longer make acceptable connections with other buses or other transportation at a given destination. In short, there will be chaos for those who rely on bus transportation.

The bus companies face a tremendous manpower problem. They cannot possibly make all the adjustments in working schedules if buses are required to run at slower speeds.

Another problem is the obvious fact than if buses have to run at slower speeds it will require more buses on the road to meet the demand. This means additional fuel consumption—not less.

Some authorities are suggesting that perhaps buses and trucks which operate efficiently only at higher speeds be allowed to travel faster. This might encourage some motorists in cars to take buses and thus arrive quicker at their destinations.

A recent study indicated that buses get 85 passenger miles per gallon of fuel and therefore are the most efficient of all means of transportation.

It appears to me that we really should take a close look at the idea of reducing speed limits. The arguments that I have heard concerning commercial vehicles—trucks and buses—make it appear that this would cause serious problems and may result in higher fuel consumption rather than reduced consumption in the shipment of goods and people.

Mr. JACKSON. Mr. President, I shall be very brief. The bill of course does not state a 50-mile-an-hour speed limit. It gives authority to the President, through the appropriate agencies, of course, to set the speed limits. I would want to make that very clear.

Let me ask a simple question: What about a man in the contract business who has trucks of his own in connection with his work? He is not covered by this exemption because it is not a commercial vehicle in interstate commerce. Are we going to say here that because he is moving equipment, he will be at a different speed than someone who is in the interstate business?

This is full of holes and trouble. I would prefer to have that authority delegated so that there can be a sensible set of guidelines worked out.

I would hope that this matter would not be brought to a rollcall vote now, since we would get into another area which will consume more time of the Senate. But, I deeply appreciate the Senator's position, and I understand what he is trying to do. I merely point out the pitfalls involved when we try to make such exemptions.

Mr. BAYH. Mr. President, I want to stress the fact that some people in the trucking industry and in the bus industry say we should exempt them completely, that we should write into the law not 50 miles an hour or 55 miles an hour but 60 miles an hour, which I think would be totally responsible. I appreciate the fact that the committee, under the leadership of the distinguished Senator from Washington (Mr. JACKSON) has resisted that, but I believe, if we are going to lower the speed limit on any vehicle, we should first have finding of fact.

We have had enough studies on cars to show that when we lower the speed to 50 miles an hour we do save fuel, but we do not have it on other kinds of vehicles. That is what I am asking.

Mr. JACKSON. I assume that they will make that finding in every area. I would not expect they would come up with speed limits not related to savings in gasoline. It should apply to all the areas and to all the categories that will be affected.

The PRESIDING OFFICER (Mr. HELMS). All time on this amendment has now expired.

The question is on agreeing to the amendment of the Senator from Indiana (Mr. BAYH).

Mr. BAYH. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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

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

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. McCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 25, nays 63, as follows:

[No. 503 Leg.]

YEAS—25

Bartlett	Dominick	Inouye
Bayh	Fannin	Montoya
Beall	Fulbright	Randolph
Bellmon	Gravel	Stevens
Bentsen	Griffin	Talmadge
Bible	Hansen	Thurmond
Brock	Hartke	Tower
Brooke	Helms	
Cannon	Hruska	

NAYS—63

Abourezk	Hart	Packwood
Aiken	Haskell	Pastore
Bennett	Hatfield	Pearson
Biden	Hathaway	Pell
Buckley	Hollings	Proxmire
Burdick	Hughes	Ribicoff
Byrd, Harry F., Jr.	Humphrey	Roth
Byrd, Robert C.	Jackson	Saxbe
Case	Javits	Schweiker
Chiles	Johnston	Scott, Hugh
Church	Long	Scott, William L.
Clark	Magnuson	Stafford
Cook	Mansfield	Stennis
Cranston	Mathias	Stevenson
Dole	McClellan	Symington
Domenici	McGee	Taft
Eagleton	McGovern	Tunney
Eastland	McIntyre	Weicker
Ervin	Metcalf	Williams
Goldwater	Moss	Young
Gurney	Muskie	
	Nunn	

NOT VOTING—12

Allen	Fong	Mondale
Baker	Huddleston	Nelson
Cotton	Kennedy	Percy
Curtis	McClure	Sparkman

So Mr. BAYH'S amendment was rejected.

The PRESIDING OFFICER. The Senator from Oklahoma (Mr. BELLMON) is recognized under the previous order to call up two amendments, on each of which there is a 10-minute time limitation, with 5 minutes on a side.

Mr. BELLMON. Mr. President, I call up my amendment, No. 674, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of section 207, page 26, between lines 12 and 13, insert the following new subsection:

( )(1) The antitrust laws, as defined in section 1 of the Act of October 15, 1914 (15 U.S.C. 12) and in the Federal Trade Commission Act (15 U.S.C. 41 et esq.) shall not apply to any joint agreement by or among persons engaged in the production or development of energy resources, including but not limited to secondary and tertiary recovery of crude oil and gas and extraction of sulfur from coal, natural gas, and crude oil, if such agreement is solely for the purpose of carrying out research to improve such production or development.

(2) As used in this section "person" means any individual, partnership, corporation, or unincorporated association or any combination or association thereof.

(3) Nothing in this section shall affect any cause of action existing on the date of enactment of this section.

Mr. BELLMON. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HATHAWAY. Mr. President, will the Senator yield for 30 seconds?

Mr. BELLMON. I yield.

Mr. HATHAWAY. I wish to direct a question to the junior Senator from Missouri on the amendment the Senator offered which provides for criminal penalties in the bill. Does that amendment apply to all sections of the bill as it has been amended, and all known amendments we have at the desk?

Mr. EAGLETON. The Senator is correct. It does so apply.

Mr. HATHAWAY. I thank the Senator.

Mr. BELLMON. Mr. President, the purpose of the amendment is to make it possible for companies involved in the energy business to be exempt from the antitrust laws so far as research and development is concerned.

I wish to give a brief report of where we stand so far as the recovery of crude oil is concerned. These figures relate to other types of energy, as well.

I have before me a paper prepared by the Department of the Interior in which they report that their current total recovery of crude is about 31 percent of the oil that has been discovered to date. That means that 69 percent of all the oil remains in the ground, in spite of the best efforts to recover it. It further states that the rate of improvement appears to be diminishing. This was reported in the first annual report to Congress under the Mining and Mineral Policy Act of 1970 by the Secretary of the Interior. The Secretary stated:

> The rate of improvement in recovery efficiency appears to be diminishing rapidly, however. The fact that an average of only one-third of the discovered oil in the ground is being recovered currently, and that significant oil deposits are becoming more difficult to find, emphasizes the need for continuing research effort in these areas.

Much of the production capacity that has been added in recent years has been obtained through technologic advances, but further dramatic increases are generally not anticipated at current costs and price levels. Yet, the potential for stimulation is great. An increase of only 1 percent of the average recovery of oil in place would yield approximately 4.3 billion barrels, or 2 million barrels per day for 12 years.

We recognize we are in an energy crisis, yet just beyond our reach is the possibility of adding 2 million barrels a day to this Nation's oil supply, as we take steps to encourage the research and development.

An article from the Oil and Gas Journal, which is the bible of the oil industry, stated on May 8, 1972, at page 21:

> . . . There is no breakthrough in sight which would permit the industry to recover a significantly larger percentage of oil it now must leave behind. And there is no buildup in spending toward achieving such a breakthrough . . .

The same Journal stated in the same issue at page 22:

> . . . The principal hope . . . appears to be cooperative effort and sharing of recovery research data with competitors . . . Most companies, fearing possible anti-trust actions, have to clear participation . . . through their legal departments . . .

To me, Mr. President, this is ridiculous. Here are energy companies that want to work together to improve methods to be used in recovering oil that we desperately need and yet they are limited by ridiculous or over-restrictive antitrust requirements.

Despite the benefits to be derived from research, proprietary interests and antitrust restrictions tend to restrict the transfer of technology between companies. Even if results are released in a timely fashion through publication, the complexity of modern petroleum technology is such that years are required for use by the thousands of smaller firms who constitute a major segment of the oil industry. If advanced technology is to provide short-run benefits to this Nation, a mechanism must be found to increase the rate of technologic transfer.

Mr. President, to sum up, the amount of oil we are dealing with here is immense. It is estimated 160-billion barrels of oil could be recovered and 300 trillion cubic-feet of natural gas could be recovered. That is enough crude oil to last 25 years and enough gas to last 15 years.

Mr. JACKSON. Mr. President, I would like to yield 1 minute to the Senator from Tennessee on another matter and then I shall respond to the question raised by the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

AN AMENDMENT INTENDED TO BE PROPOSED

Mr. BROCK. Mr. President, I ask unanimous consent to have printed in the RECORD an amendment I intended to propose.

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

The amendment is as follows:

> On page 30, insert the following between line 18 and 19:
>
> SEC. 308(c)(1) In carrying out the provisions of this Act, Section 203(a)(3) of the Economic Stabilization Act of 1970, as amended, and the Emergency Petroleum Allocation Act of 1973, the President, or his designee, may employ persons of outstanding experience and ability with or without compensation.
>
> (2) The President may exempt any person employed pursuant to subsection (c)(1) of this section from the provisions of sections 203, 205, 208 and 209 of title 18 of the United States Code if the public interest so requires, except that—
>
> (i) exemption hereunder shall not extend to the negotiation or execution, by such person, of Government contracts with the private employer of such person or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the person has any direct or indirect interest;
>
> (ii) exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of such person or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the person has any direct or indirect interest;
>
> (iii) exemption hereunder shall not extend to the prosecution by such person, or participation by the person in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the person had any responsibility during his Government service under this section, during the period of such service; and
>
> (iv) exemption hereunder shall not extend to the receipt or payment of salary in connection with such person's Government service hereunder from any source other than the private employer of the person during Government service.

Mr. BROCK. Mr. President, the reason I submit the amendment for printing in the RECORD is to draw attention to the critical need for more expertise in the implementation of mandatory programs. We do not have enough manpower and more importantly we do not have enough qualified manpower. One of the first things we should do is to direct our attention to this desperate need and try to encourage industry, where possible, to donate voluntarily such management personnel to help out with the program.

Mr. JACKSON. Mr. President, I am in sympathy with the amendment. As a matter of fact, we are going to have to proceed at an appropriate time to bring in people as we did in World War II and the Korean war who are familiar with the business operation. We did not have a chance to go into this matter. It involves many conflict-of-interest statutes. We will take this matter up when we take up the question of the establishment of the office that Governor Love requested in his letter to us today with an appropriate amendment.

I assure him that we will give this matter priority so we can get moving on it.

Mr. BROCK. I am very grateful to the Senator. I think it deserves it. We cannot implement this program without it.

Mr. JACKSON. I agree with the Senator.

Mr. President, the Senator from Michigan wishes to respond to this amendment. I want to take 30 seconds, and I will yield the remainder of the time to the Senator from Michigan, who is chairman of the Antitrust and Monopoly Subcommittee.

I would point out that there have been no hearings on this question and we have the antitrust statutes and the Trade Commission Act regarding this particular proposal. I do think the Senator from Oklahoma has raised a question on which there should be some kind of record with appropriate legislation to encourage research and development on a joint venture basis. However, I will have to oppose the amendment because we have not gone into it, we have not had hearings, and it is within the jurisdiction of the Judiciary Committee, particularly the subcommittee headed by the Senator from Michigan.

I yield the remainder of my time to him.

Mr. HART. Mr. President, I would be more comfortable, as would the Senator from Washington, if we had had some hearings on this matter. I confess to having a kind of instinctive reaction to any kind of proposal, I suppose by anyone, but particularly by those who can be fairly designated as giants of the industry, that they be given some kind of exemption from the antitrust laws.

I can, in opposing this amendment, simply say that no safeguards are proposed in the amendment before us; not even is it required that there be a scrap of paper about someone entering the agreement or who shall or shall not be denied access to the fruits.

Solely to do research sounds great. That is what the auto companies said they were doing when they were discussing modifications of engines with respect to California air requirements.

I hope very much that, under the admitted crisis situation that confronts us, we will not, with the very few moments of attention we are permitted to pay to it now, undertake to create an exemption for firms whose track record with respect to antitrust is less than perfect.

The PRESIDING OFFICER. The time on the amendment has expired.

AMENDMENT NO. 674

Mr. BELLMON. Mr. President, I had 5 minutes on another amendment, No. 675. I ask unanimous consent that two of those minutes may be used on amendment 674.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BELLMON. Mr. President, the statement has been made that no hearings have been held on this proposition. This is part of S. 1162 that was introduced by the Senator from Oklahoma on March 12. So it is not a surprise we are springing here today. This is a matter of much importance. The Senate has adopted amendment No. 685 by Senators JACKSON, HART, FANNIN, and BUCKLEY which deals with many other areas and gives the industry exemption from the antitrust laws or regulations. I am simply trying to add the immensely important area of research and development to the areas that have already been exempted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 31, nays 57, as follows:

[No. 504 Leg.]

YEAS—31

Bartlett	Eastland	Montoya
Bellmon	Fannin	Nunn
Bennett	Goldwater	Pearson
Brock	Gravel	Saxbe
Buckley	Griffin	Scott, William L.
Byrd, Harry F., Jr.	Gurney	Stevens
Cook	Hansen	Talmadge
Dole	Helms	Thurmond
Domenici	Hruska	Tower
Dominick	Long	Young
	McClellan	

NAYS—57

Abourezk	Hart	Moss
Aiken	Hartke	Muskie
Bayh	Haskell	Packwood
Beall	Hatfield	Pastore
Bentsen	Hathaway	Pell
Bible	Hollings	Proxmire
Biden	Hughes	Randolph
Brooke	Humphrey	Ribicoff
Burdick	Inouye	Roth
Byrd, Robert C.	Jackson	Schweiker
Cannon	Javits	Scott, Hugh
Case	Johnston	Stafford
Chiles	Magnuson	Stennis
Church	Mansfield	Stevenson
Clark	Mathias	Symington
Cranston	McGee	Taft
Eagleton	McGovern	Tunney
Ervin	McIntyre	Weicker
Fulbright	Metcalf	Williams

NOT VOTING—12

Allen	Fong	Mondale
Baker	Huddleston	Nelson
Cotton	Kennedy	Percy
Curtis	McClure	Sparkman

So Mr. BELLMON'S amendment (No. 674) was rejected.

AMENDMENT NO. 675

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I call up my amendment No. 675.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BELLMON'S amendment is as follows:

On page 26, between lines 12 and 13, add the following new subsection:

( ) (1) Not withstanding any provision of law to the contrary, the Secretary of the Interior shall determine and put into effect, not later than ninety days after the date of enactment of this Act, with respect to mineral leases entered into or renewed thereafter, in addition to the present system of leasing, a system of payments for mineral leases on offshore Federal lands which is based on the amount of production under such leases, and which includes work performance requirements determined by the Secretary.

(2) Leases issued or renewed after enactment of this Act shall not be transferable nor may lessor acquire partners without the express consent of the Secretary of the Interior.

The PRESIDING OFFICER. The Senator has 4 minutes on this amendment.

Mr. BELLMON. Mr. President, I will take very little time. The purpose of the amendment is very simple. At the present time, when Federal leases are opened up for development, it is always done on the basis of competitive bids, and the leases go to the highest bidder. I have in my hand a chart showing the amount of dollars paid for lease bonuses since 1958, and the sum is several billion dollars.

What this amendment would do is take that many dollars out of the exploration and development funds the industry has to spend and put them into the Federal Treasury, which is a fine objective, but the problem is that with the prices we now have, in my opinion, these funds would be better invested in actual drilling of wells than in paying lease bonuses. My amendment would simply make it possible for the Secretary of the Interior to work out other means of making these tracts available and getting a larger percentage of production into the Federal Treasury. The Federal Treasury would get the same amount of money, but would get it as oil was produced, and we are now interested in getting maximum production domestically from Federal acreage, where most of the reserves are now located.

That is the purpose of the amendment.

Mr. JACKSON. Mr. President, I regret that I will have to oppose the amendment. The Outer Continental Shelf Act does have the flexibility to permit a variety of methods of payment. The Secretary of the Interior has been making extensive studies in this area. Certainly the Committee on Interior and Insular Affairs should consider any amendment of the Outer Continental Shelf Act.

The Department, as I understand it, presently collects royalties on all production, and has development requirements in the lease. The amendment would not have any impact in the short-term energy crisis. Modification of the basic leasing law requires careful review and hearings.

So I would hope that this amendment could be considered in the committee, in connection with the Outer Continental Shelf Act, and that we would not attempt to make changes in the leasing law without having heard from the Secretary of the Interior and without having the benefit of the Secretary's views.

It is my understanding that the Department has not made any request along this line, and I would hesitate to interfere in the management of the OCS Act in the absence of hearings that would give us a chance to get all points of view.

I will certainly be glad to get into the matter as soon as we can in connection with consideration of the Outer Continental Shelf Act.

I am prepared to yield back the remainder of my time.

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield back the remainder of his time?

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

The PRESIDING OFFICER (Mr.

HELMS). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 29, nays 59, as follows:

[No. 505 Leg.]

YEAS—29

Bartlett	Eastland	Moss
Beall	Fannin	Pearson
Bellmon	Goldwater	Saxbe
Bennett	Gravel	Scott, William L.
Brock	Griffin	Stevens
Buckley	Gurney	Taft
Cook	Hansen	Thurmond
Dole	Helms	Tower
Domenici	Hruska	Young
Dominick	Long	

NAYS—59

Abourezk	Hart	Montoya
Aiken	Hartke	Muskie
Bayh	Haskell	Nunn
Bentsen	Hatfield	Packwood
Bible	Hathaway	Pastore
Biden	Hollings	Pell
Brooke	Hughes	Proxmire
Burdick	Humphrey	Randolph
Byrd, Harry F., Jr.	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Roth
Cannon	Javits	Schweiker
Case	Johnston	Scott, Hugh
Chiles	Magnuson	Stafford
Church	Mansfield	Stennis
Clark	Mathias	Stevenson
Cranston	McClellan	Symington
Eagleton	McGee	Talmadge
Ervin	McGovern	Tunney
Fulbright	McIntyre	Weicker
	Metcalf	Williams

NOT VOTING—12

Allen	Fong	Mondale
Baker	Huddleston	Nelson
Cotton	Kennedy	Percy
Curtis	McClure	Sparkman

So Mr. BELLMON's amendment (No. 675) was rejected.

AMENDMENT NO. 679

Mr. TUNNEY. Mr. President, I call up my amendment No. 679 and send to the desk a substitute for it and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. HELMS). The clerk will first state the amendment as modified.

The assistant legislative clerk proceeded to read the amendment.

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

Mr. RANDOLPH. Mr. President, will the Senator from California yield for a question?

Mr. TUNNEY. I yield.

The PRESIDING OFFICER. The Chair would inquire if it is the Senator's intention to consider his amendment as a modification or a substitute.

Mr. TUNNEY. As a modification.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. RANDOLPH. Mr. President, I appreciate the opportunity to ask this question of the able Senator from California: What time is he indicating should be allotted to his amendment, because there are those of us who will want to speak against it?

Mr. TUNNEY. The Senator from New York (Mr. JAVITS) is the prime cosponsor. I understand he feels he needs about 5 minutes. Would the Senator from New York indicate how much time he wants?

Mr. JAVITS. Not over 5 minutes.

Mr. TUNNEY. I would like to have 5 minutes. That would be 10 minutes. Perhaps another 3 or 4 minutes for anyone else that wanted to speak to it. So that would be, roughly speaking, 14 or 15 minutes.

Mr. COOK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Kentucky will state it.

Mr. COOK. Has the Chair ruled on the unanimous-consent request made by the Senator from California (Mr. TUNNEY) that the reading of his modification be dispensed with?

The PRESIDING OFFICER. The Chair has not.

Mr. COOK. Then I would object to dispensing with the reading of the modification and would ask that it be read in full.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

On page 22, after line 18, add the following new material and renumber the remaining subsections accordingly:

(d) For the duration of the energy emergency, and notwithstanding any other provision of Federal law, Highway Trust Fund sums authorized pursuant to section 104(a)(2) of the Federal-Aid Highway Act of 1973 shall be available for implementation of paragraph (c) of this section and for implementation of transportation control plans developed pursuant to subsection 203(b)(2) of this act to finance public mass transit projects involving the purchase of passenger equipment, including rolling stock for any mode of mass transit, the operation and maintenance of mass transit facilities, the construction of fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, the construction of preferential bus lanes on existing roadways, and the facilitation of commuter car pools.

The PRESIDING OFFICER. The Senator from California has asked for the yeas and nays. Is there a sufficient second?

The yeas and nays were ordered.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia will state it.

Mr. RANDOLPH. What is the division of time on this amendment?

The PRESIDING OFFICER. There is no time limitation.

Mr. TUNNEY. Would 15 minutes on each side be satisfactory?

Mr. RANDOLPH. I thought, in the interest of attempting to accommodate Senators who have thought in terms of another amendment or two, that 30 minutes would be agreeable, with 15 minutes to be controlled by the Senator from California proposing the amendment and, if agreeable to the manager of the bill, 15 minutes be given to me to oppose the amendment. A portion of that time would be taken by the Senator from Texas (Mr. BENTSEN).

The PRESIDING OFFICER. The Chair would state that the only time limitation, as of now, is on final passage of the bill, which will occur not later than 5 p.m. today.

Mr. RANDOLPH. It is agreeable to me to debate the matter for 15 minutes. I am prepared to do that but perhaps we had better let it go. I was trying to be helpful.

Mr. FANNIN. Mr. President, we have not had any requests for that much time all day long. The usual limit has been 5 minutes to a side. I would therefore hope that we could be consistent. There are other Senators who have amendments. Would 10 minutes be sufficient, if the manager of the bill would permit that?

Mr. TUNNEY. It would be satisfactory to me.

Mr. JACKSON. Yes. Mr. President, I want to support what the distinguished Senator from Arizona had to say. We have tried to hold down the time limitation on amendments. I will not take any time. I will be glad to make time available to the Senator.

Mr. TUNNEY. Ten minutes to a side.

Mr. JACKSON. Mr. President, I ask unanimous consent that the time on this amendment be limited to a total of 20 minutes, equally divided.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that during the consideration of this amendment, the following staff members of the Committee on Public Works be given the privilege of the floor: Barry Meyer, Bailey Guard, Leon Billings, John Yago, Ron Katz, Jacqueline Schafer; and Stephen Paradise of the staff of the Committee on Banking, Housing, and Urban Affairs.

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

Mr. TUNNEY. Mr. President, I ask unanimous consent that the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Massachusetts (Mr. BROOKE) be added as cosponsors of this amendment.

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

Mr. TUNNEY. Mr. President, I would think that this amendment would be supported by any Senator who is interested in jobs, who is interested in heating homes this winter, who is interested in having adequate fuel for electric power generating plants, and who is interested in having sufficient heating fuel for homes and industrial fuel.

The reason I say this is that this amendment would make moneys available from the highway trust fund—specifically, $1.07 billion—for the purpose of supporting mass transit systems in this country. In addition, it would make money available for the promotion of car pooling and the building of parking lots near the terminals for mass transit.

In other words, what we are attempting to do is to get people out of private passenger automobiles into carpools and onto mass transit facilities. This amendment would provide adequate funding to do these things. There would be no need to go through the appropriation process because up to $1.07 billion in highway trust fund moneys would be available at the discretion of the President.

The amendment also provides that the President can make highway trust fund money available to implement transportation control plans prepared under section 203(b)(2) of S. 2589.

The authorization in the amendment is for the duration of the emergency, which is 1 year.

I can say from experience that San Diego, Calif., where a local subsidy was provided for operation and maintenance of mass transit facilities, and fares were subsidized to the tune of 25 cents per passenger, no matter how long the ride, the use of that mass transit facility increased by 100 percent in a period of 2 years.

The reason why I say we are going to be able to have more fuel available to power electric generating plants and for industry if this amendment is adopted and if the moneys are utilized is simply that, at the present time, middle distillate fuels only comprise about 18 percent of the total production of refineries. There is no question that present technology can increase that 18 percent up to about 26 percent. Middle distillates are used by electric power generating plants and by industry for the purpose of firing their boilers. If we are going to be able to use our refinery capacity for middle distillates and increase middle distillate production, we will have to cut back on gasoline production, which means that we will have to cut back on the number of passenger miles traveled in passenger vehicles, which consume 24.4 percent of the total energy used by this country.

This amendment would provide adequate funding now to shift precious energy resources currently being consumed by automobiles away from the highways and toward the homes and industries which must be heated and operated through this coming winter, if we are to avoid disastrous economic consequences. A reduction in gasoline consumption is possible only if there are viable mass transit alternatives. Mass transit alternatives—such things as keeping old buses in service, creating preferential bus lanes, reducing fares—can be developed only if urban areas have available moneys necessary to expand and operate their mass transit systems.

The Congress has agreed to make use of the highway trust fund for the purpose of financing the purchase of buses—but not rail transit—commencing in July 1975. No money will be available for operating subsidies. I submit that the current energy emergency makes that agreement sorely inadequate.

We are not talking here about stopping any highway projects; the amendment would not have any long-range effect on the trust fund's ability to meet all current and projected highway plans. We are not talking about any disruption in the national transportation system: It is the President who would have authority to make funds available to implement this and other sections of the act.

Nothing else could more directly save gasoline, maintain employment and essential services. The trust fund revenues are projected to be at least $12 billion for the next 3 years, with obligations of only $7 billion. Moreover, urban areas provide 50 percent of the trust fund revenues—clearly sufficient justification to entitle them to needed mass transit financing which they have sought for so many years.

The moneys which would be made available by this amendment are required by urban areas to meet the energy emergency during the next year. First, mass transit moneys and funding mechanisms now available pursuant to the Highway Act and Urban Mass Transit Act are insufficient to meet the crisis. Second, even though existing capacity to manufacture and assemble buses in almost fully utilized, some expansion can take place quickly. Third and most important, such things as retaining old buses in service, subsidizing fares and building preferential bus lanes can be accomplished immediately, and, according to reports, can increase mass transit ridership by an average of 20 percent. This means a savings of billions of gallons of gasoline.

In 1970, the automobile consumed 24.4 percent of the total energy used by this country. In terms of the distribution of energy within the transportation sector alone, the automobile consumed 55.3 percent, and buses and trains combined consumed slightly over 3 percent. At a time when we face a potential energy shortage of 40 percent in some areas of the country, this situation is intolerable.

Let me add that nothing in this amendment affects, in any way, the labor protection provisions in title 23 or in S. 2589. Those protections apply to the use of any funds pursuant to this amendment.

The amendment we offer would go a long way to implement—and not just to propose—a meaningful solution.

I yield to the senior Senator from New York.

Mr. CHILES. Mr. President, will the Senator yield for a question?

Mr. TUNNEY. I should like to yield first to the Senator from New York, and then I will accept a question.

Mr. JAVITS. Mr. President, I join the Senator from California in this amendment. It is very understandable that the great States with the massive populations should join in this amendment. It is well known that this represents an element of a struggle which has been going on for a long time in the tremendous waste which is involved in favoring highway transportation as against urban mass transit in respect of the law. Certainly, there is the least possible reason for making this distinction when we are dealing with an emergency in which it is essential that all must sacrifice.

This amendment is not, as some would argue, a breaking open of the Highway Trust Fund for mass transit purposes. It is a limited and essential measure that would make available the funding needed to implement the fuel conservation plans already provided for in this bill. It would fund only those projects the President deems necessary to alleviate the energy emergency.

We have been debating now for 3 days the methods by which we are going to meet the energy emergency we face. It is clear from this debate, from the Interior Committee hearings and from all available evidence, that one of the surest means of conserving energy is by drastically limiting the use of the private automobile. No one doubts that some such measures must be reckoned with, and without further delay.

Within several months, it is likely that private automobile use will be significantly curtailed; hopefully we will not have to ration gasoline, but whether by emergency transportation control plans developed by the States and cities, or by rationing, drastic curtailments will be necessary.

Yet the bill as written provides no funding for alternatives to private automobile use. Certainly, funding for those alternatives may be forthcoming, but it is agreed by all that we have no time to waste.

When significant transportation control plans are implemented, millions of our citizens will be faced with severe transportation problems. Will they be able to drive to work, drive their children to school, drive to the market to shop, or drive to the doctor's office? Americans depend on the use of the private automobile to a degree not matched by any other nation in the world. When significant limitations are imposed, trauma and chaos could result.

But, it will be argued, that this bill provides for alternatives so that our citizens will not be stranded. It does, and necessarily so. The President, under section 204(c), must develop incentives for mass transit, including the possibility of emergency operating subsidies.

Yet even with these movements toward alternatives, there is not one word in the bill as to how these alternatives are to be funded. A plan will do in normal times,

but these are not normal times; immediate implementation of these plans is critical to avoid catastrophic disruptions in the daily life of the public.

The amendment before us would not mandate that any funds be used for mass transit purposes, nor would it even allow that any rural funds or any Interstate System funds be used for mass transit. It is limited to urban funds, most of which are already available for mass transit capital projects if the State and local officials opt to use them for those purposes.

The major thrust of the amendment is to give the President an immediate method for funding the emergency mass transit incentives he develops under section 204(c). Such funds, whether used for immediate capital improvements or operating subsidies, could have a major and immediate beneficial effect upon mass transit ridership, an effect that must not be delayed if we are to provide realistic alternatives to the private automobile.

These urban funds could only be expended for these purposes for Presidentially developed plans under section 204 (c) or Presidentially approved plans under section 203(b). Thus, only those mass transit projects or subsidies specifically approved by the President could be funded with highway trust fund moneys.

It is important to note that this amendment in no way changes the allocations or procedures of the highway trust fund. It amends only the emergency energy bill, the authority under which will only last for the duration of the emergency. No permanent change in the highway trust fund is affected.

Mr. President, these are emergency times and we must take emergency measures. Section 204(c), a necessary and important section of the bill, must be given the chance to have immediate beneficial effects. Without this amendment, that section can have no immediate effect, and it could be many months before any mass transit alternatives are provided.

I ask the Senate not to let this opportunity slip by. Talking about the energy emergency will not help our citizens meet the problems they confront because of it, nor help them conserve the fuel that must be preserved. This legislation must provide for the means as well as ends; this amendment would do just that. I urge adoption of this amendment.

Probably the greatest single conservation that can be engaged in is this one. The bill recognizes that, because it says in the section sought to be amended, section 204(c):

> The President shall develop and implement federally sponsored incentives for the use of public transportation, including priority rationing of fuel for mass transit systems.

Here are the key words.

> And Federal subsidies for reduced fares and additional expenses incurred because of increased service for the duration of the energy emergency.

The difficulty with this section is that it starts with, "The President shall develop and implement." That is not an authorization for money, notwithstanding the fact that later it says that he shall develop and implement Federal subsidies. But he is not given any money.

What the amendment proposed by the Senator from California seeks to do is to give the President some money authority in a manner which the Senate has passed before, precisely because the Senate was forehanded in understanding the dangers of the situation. In the highway bill, the conference report of which was held up for weeks and weeks based upon this very struggle between the Senate conferees and the House conferees, we finally compromised on a very small increment for urban mass transit. But that was permanent legislation, not designed to meet a given emergency and where the forces alined toward the integrity of the highway trust fund strictly for highway purposes did not run up against the national need which is represented by this crisis in respect of energy.

The 1-year provision which has been proposed by the Senator from California, and which I strongly support, would endeavor to give the President some resources with which to implement the declared policy of the act, which no one has amended and no one has sought to challenge. It seems to me that where you have, therefore, a pattern of emergency, a pattern of use, which is 10-to-1, according to the figures—that is, you get 200 miles per passenger out of a gallon of gasoline used in a bus and only roughly 13 miles in a similar gallon used in a private car mostly occupied by one person—it seems to me that, under the emergency, the Senate at least ought to reiterate its position respecting the highway trust fund, this time standing with it, because it is fully justified on an emergency basis; and the Senate should not yield on the ground that it wants a highway bill on a permanent basis, where we have made a compromise very much against our own interest.

The Senator from New Jersey (Mr. WILLIAMS) was the original author—and I joined him—of almost this measure, in the same words, in the Senate. It passed the Senate, but we could not make it stick because we needed a highway bill, and we yielded to the House. Now we are in a great emergency, and the House ought to yield to us, and the Senate ought to reassert its position in the way argued by the Senator from California.

Mr. TUNNEY. Mr. President, one point I should like to add to the very lucid remarks of the Senator is that in this amendment we have a provision for the funding of carpooling schemes. If we do not have support for such schemes, it could mean that in the very near future, when we have gas rationing, housewives will not be able to move from their homes to the shopping centers, because the entire fuel allotment of their family will be taken up by their husbands going to and from work.

I do not know what it is like in New York, but in California, where we have many people living in surburban areas, in tract homes, they cannot walk from their homes to the shopping centers. They will need their cars to do that. If we do not have carpool arrangements to move wage earners from their homes to their jobs and from their jobs to their homes, there will be a great hardship for many millions of people.

Mr. JAVITS. The Senator is correct. We find that 26 of the 50 States are sparsely settled and have the same problems as the State of California. The 7.5 million people living outside the metropolitan area of New York, and even in suburban counties, have the same problem.

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

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, is it the parliamentary procedure that the Chair will agree that I can yield to Members on the floor while holding the floor?

The PRESIDING OFFICER. The Chair is advised that it would require unanimous consent for the Senator to hold the floor and parcel out time. The Senator can yield only for a question.

Mr. GOLDWATER. There is nothing unusual about that.

The PRESIDING OFFICER. The Senator is correct.

Mr. GOLDWATER. So the Senator can proceed in the normal channels.

The PRESIDING OFFICER. If there is no objection, the Senator may proceed.

Mr. JAVITS. Mr. President, what is the unanimous-consent request? The Chair said, "If there is no objection."

Mr. RANDOLPH. The Senator from California has been yielding to Senators.

Mr. JAVITS. Has the Senator made a unanimous-consent request?

Mr. RANDOLPH. I will make one now.

Mr. JAVITS. Mr. President, I reserve the right to object for this reason. I know the Senator from West Virginia well, and I would not object, but I do not get the exact request, which is that he hold the floor until when?

The PRESIDING OFFICER. The Senator can hold the floor only until 5 p.m.

Mr. JAVITS. That is correct, and that means some Senators who want to speak may be shut out. I will agree if the Senator will first limit the time.

Mr. RANDOLPH. I tried to do that earlier in the day.

Mr. JAVITS. I did not understand it. May we know how much time the Senator wants? I have no desire to object, but I think we should be fair to others.

Mr. GOLDWATER. Mr. President, on this business of time, I ask if the Senator from West Virginia will yield to me. I am perfectly willing to wait until he finishes and get the floor under my own power. But I have been listening to debate here for many years, and we ask regularly if we might yield without losing our right to the floor, and I do not think I have ever heard that courtesy denied.

Mr. JAVITS. May I ask the Senator about the time question? Would he want to hold the floor until 5 p.m.?

Mr. GOLDWATER. The Senator knows me better than that.

Mr. JAVITS. Of course, I do. But that is the point.

Mr. GOLDWATER. This is an important amendment and it is a dangerous amendment. I might feel like talking if

I am prompted to do so, but right now I do not feel that strong urge; but I could if the Senator from New York wants to make a point of it.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RANDOLPH. What time has now run with the Senator from California who proposes the amendment? What time has been consumed already? I am attempting to find an equitable basis. How much time has been used?

The PRESIDING OFFICER. The Senator began at 4:04 p.m. The time consumed is 19 minutes, to respond to the Senator's question.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the opposition to the amendment may have 25 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Reserving the right to object, I understand there are other cosponsors of the amendment who wish to be heard, so we are going now into a roundabout way of getting controlled time, which I have objected to. Why do we not allow this to go along on its normal basis?

The PRESIDING OFFICER. Is there objection to the request?

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, after reading the amendment offered by the Senator from California (Mr. TUNNEY), for himself and others, I really had to remind myself that the legislation of today attempts to cope with emergency measures for the energy crisis. Otherwise I might be persuaded, and this has been indicated already by the Senator from New York (Mr. JAVITS), that the Federal Aid to Highways Act of 1973 was before this body. The amendment is very much like some offered to the Highway Act, which were rejected by the Senate, as the rollcalls will show.

I really cannot consider it a serious attempt to accommodate ourselves, I say with courtesy to the Senator from California, with the shortage of fuel, it is, indeed, an effort to rewrite the Highway Act, over which we labored for a year and a half in this body.

Furthermore, the provisions of this amendment would not accomplish what it purports to do. It is largely unnecessary and redundant.

There are several deficiencies in the amendment offered by the Senator from California. In the first place, most of the options that this amendment attempts to give local officials are already available within the context of the total highway program.

We labored long and hard on this issue, and there was an inability by Congress to enact the highway bill in 1972. The Senate-House conferees came back in 1973. We met on 29 occasions for approximately 125 hours. The vast majority of this time was devoted to finding reasonable and workable answers to the mass transit problem. I disagree with the Senator from New York when he indicated that the Senate gave in to the House in that conference.

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard. The Senator may proceed.

Mr. RANDOLPH. Rather than giving in to the House, I say to the Senator from New York that the House really gave in to us. That is the result of the conference.

Final resolution of this question is one which I believe equitable and reasonably focuses both the highway program and the mass transit program on the needs of contemporary urban transportation.

I hope colleagues in the Chamber will have the opportunity to read the statement I have placed on the desk of each Senator. I hope Senators will do that before voting on the amendment.

In January 1974, up to $200 million in urban highway funds will be available for the purchase of transit buses. The provisions of the amendment before the Senate could not make funds available any more rapidly. In January 1975, the full $800 million authorized for urban highways that year can be utilized for the acquisition of both buses and fixed rail transmit equipment in addition to a variety of other transit-related activities.

Mr. President, I repeat that the authority to use highway funds for mass transit exists and is supplemental to Federal aid provided under the urban mass transit program. This year's Highway Act also increased authorizations for the urban mass transit program by $3 billion.

Even though I might disagree with other Members who I know will not support the Tunney amendment, I voted for mass transit, I remind the Senator from New York and the Senator from California, in the amounts of, first, $3 billion and then another $3 billion.

So the Senator from West Virginia, now speaking against this amendment, cannot be accused in any wise of having failed to support mass transit through the programs that have been presented.

Funds from both highway and mass transit programs are, and will, shortly be available to expand and improve transit systems. There are questions, however, that these resources can soon be expended. The fact is that the industries that build buses and rail cars and other transit equipment simply do not have the capacity to fill large new orders at once. If, as I believe we must, the United States is to exercise its new commitment to mass transit, a period of time is required to translate this commitment into hardware.

During development of the 1973 Highway Act I cautioned that use of highway funds for transit would not suddenly loosen a flood of cash in the direction of transit agencies. Since passage of the Highway Act, the executive branch has once again restricted spending under this program. The act authorizes approximately $5.8 billion for the highway program in fiscal year 1974. The administration, however, has impounded a substantial portion of the obligational authority provided by the bill. Only $4.4 billion is being released for obligation this year and similar restrictions doubtless will be imposed in the next two fiscal years also covered by the act. Of the funds released, $700 million can be utilized only for noninterstate projects in urbanized areas.

The 1973 Highway Act was designed to provide maximum flexibility to respond to the wide variety of transportation needs that exist in our country. This flexibility has taken on new importance with development of the acute energy crisis that today threatens to restrict personal automobile use.

With respect to the urging of car pools to reduce energy consumption, this provision of the amendment also is unnecessary. Without being referred to specifically, car pooling activities probably already are legitimate functions of the highway program in the general category of traffic operations improvement.

In any event, the Committee on Public Works now has before it a bill introduced by Senator DOMENICI (S. 2598), with my cosponsorship, which deals specifically with car pooling. We anticipate offering this bill as an amendment to the Fuels and Energy Conservation Act (S. 2176) when that measure comes before the Senate.

Mr. President, I must call attention to one other proposal in the amendment which could substantially endanger the success of the total bill. I refer to the provision authorizing "the operation and maintenance of mass transit facilities." The administration remains adamantly opposed to any Federal operating assistance for mass transit. As we worked on the highway bill we were told in no uncertain terms that inclusion of operating funds would stimulate a veto of the bill even though it contained other provisions urgently desired by the administration.

I am informed that the Department of Transportation opposes this amendment. I have a letter from the Secretary of Transportation stating its opposition.

There are also substantial reasons why this is a poor time and this emergency act is a poor vehicle for trying to resolve the operating subsidies question. While the Senate this year and last year voted to amend the Urban Mass Transit Act to provide for operating subsidies, there are many unanswered questions about the implementation and impact of Federal subsidy payments. I, personally, believe that operating subsidies are essential, not only to the continuing viability of transit systems, but also to any long term effort that increases ridership and thereby curtails private car usage and urban conjestion.

The amendment before us, Mr. President, simply authorizes highway trust funds to be used for subsidies. There are no safeguards that they will be used to meet legitimate needs. We cannot be sure that these funds will simply be expended to compensate for the inefficient operation of local bus and rail systems.

Furthermore, there is a great difference of opinion on the needs of transit systems to cover legitimate operating deficiencies. Most studies, however, show that subsidy requirements are far too large to be effected by any funds that

might be provided as a result of this amendment.

No subsidy program can be truly effective without local involvement. Mass transit is very much a local issue and until we know to what extent communities are able or willing to provide subsidies, Federal entry into this field would be premature. Finally, the question of operating subsidies is already addressed in the bill before us. Section 204(c) directs the President to develop and implement federally sponsored incentives for the use of public transportation including "Federal subsidies for reduced fares and additional expenses incurred because of increased service—." This evidence leads inevitibly to the conclusion that the amendment is not intended to alleviate the fuel shortage so much as it is to raid the highway trust fund.

Mass transit and related issues are of particular concern to the Senator from New Jersey (Mr. WILLIAMS). He worked closely with us last year and earlier this year when these matters were considered in connection with the Highway Act.

Senator WILLIAMS has worked hard to initiate a demonstration program to find answers to many of the unknown quantities about transit subsidies. Only when these answers are provided and supported by factual information can a workable subsidy program have a chance of success. The amendment before the Senate does not address needs and it does not provide for any examination of its ramifications or workability.

I cannot but view this amendment as a backdoor attempt to undo that which we so laboriously affected in the Highway Act earlier this year. It is, simply, a cosmetic proposal of no substance and with virtually no impact on the energy crisis.

The Congress has made its commitment to mass transit. It has reaffirmed with substantial monetary backing that the highway and mass transit programs are closely related. What we must do today is concentrate our attention on workable solutions to the energy crisis. We can best do this by rejecting amendments like that before us.

I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, I rise to oppose the Tunney amendment.

The Tunney amendment represents an attempt to reopen an issue that this body debated at considerable length last March and again in August.

The Federal Aid Highway Act of 1973 was one of the most thoroughly debated measures in the 93d Congress. After the Senate passed its bill, which contained a provision allowing urban system trust funds to be used for mass transit, the House followed with a bill that prohibited any use of the trust fund for the same purposes.

That left us at an impasse, an impasse that took 2½ months and thousands of man-hours of discussion in one of the lengthiest conferences the Congress has seen. When it was over, the conferees emerged with a bill that preserved the essence of the Senate position and won the praise of many Senators and commentators who believed that such a result was unlikely, if not impossible.

The conference report was supported by the Senator from California and passed by a lopsided margin of 91 to 5.

To briefly review, the major elements of the compromise on mass transit: we provided no funds for this fiscal year from the trust fund for rails and buses, $200 million from the trust fund in fiscal 1975 for buses, and the full amount of urban system trust funds, at local option, for any form of mass transit in fiscal 1976, some $800 million.

The National Journal termed the final bill "one of the best examples of the role of conference committees in forging compromise legislation."

Mr. President, in 45 days, trust fund moneys will begin to be available to the cities for the purchase of buses. That is during the course of this national emergency. But the Highway Act of 1973 does more for mass transit than simply invade the urban system trust funds for rails or buses.

It provides some $3 billion in capital expenditures over the next 3 years for all forms of mass transit under the Urban Mass Transportation Act.

It provides an increase of over 800 percent in urban system funds, which have a new flexibility in use.

It provides that funds from the highway trust fund can be used in urban areas for the construction of exclusive bus lanes, exclusive or preferential truck and emergency vehicle routes or lanes, traffic control devices, and facilities. Many of these same provisions are also in the Tunney amendment, but they are already in the law as written.

I mention these facts, Mr. President, because I want to emphasize that the legislation that we passed was a transportation bill that appealed to all segments of our population. The Institute for Rapid Transit, in the latest addition of its Executive Digest, says, that—

> The act gives the state and local governments the option of doing just about anything to improve their transportation situation . . .

President Nixon, who fought hard for a total transportation bill, said that the Federal Aid Highway Act of 1973 was—

> The only significant legislative breakthrough of the 93d Congress.

All of these sources, who had taken hard positions on mass transit, approved the final bill.

Now, what about the Tunney amendment? Does it accomplish anything or simply provoke a confrontation with the House after several months of hard and sensitive bargaining? I submit that it is clearly counterproductive.

It may be argued that our situation is different today than it was some 3 months ago when we passed this conference report with the support of the Senator from California. I profoundly disagree. The conferees were fully aware of the impending energy crisis when we held our discussions, even if the administration was tardy in announcing an energy policy. In fact, I have been warning about our overreliance on foreign oil since I came to the Senate in 1971. Senator RANDOLPH has been talking about it since the fifties. The Middle East war only dramatized a problem that was very much with us in August of this year.

Will the Senator's amendment accomplish his goals? I suggest that it will not. We will begin using trust fund moneys for the purchase of buses within 2 months.

We have provided ways for interstate funds for controversial interstate segments to be exchanged for funds to build any form of mass transit as early as this fiscal year. The cities do not have to wait until 1976.

The Senator's amendment provides subsidies for the operation and maintenance of mass transit facilities. We passed such a bill a short time ago, and it was vetoed. In addition to that, our subsidy bill had safeguards to assure that funds would not be spent to reward inefficiencies in publicly operated transit systems. There are no such safeguards in the Tunney amendment.

The fringe and corridor parking, the construction of exclusive bus lanes, are already in the Federal Aid Highway Act of 1973. There is no need to repeat language on that subject in this amendment, for it has already been done.

So, Mr. President, I would point out that the Public Works Committee has not evaded these issues in the highway bill; we have dealt with them.

And the Tunney amendment does not result in any substantial gain for mass transit. Buses can be purchased in 2 months under the highway act, and they are already being purchased under the Urban Mass Transportation act. Any form of mass transit can now be supported under the highway act, since a city has an option to trade its trust fund moneys in for general fund money to purchase any kind of mass transit equipment it desires. The mechanisms are already in place: if the administration wishes to support mass transit, it can do so under present law.

Let me reiterate—the highway act is a transportation act, hammered out over many months in very difficult and sensitive negotiations. The essence of the Senate view was preserved. Our energy needs were fully taken into account.

Now to undo all of that work for no practical reason seems imminently unwise. A vote against the Tunney amendment is not a vote against mass transit. It is a vote to implement a forward-looking highway act, which already gives us the tools we need.

I urge the rejection of the Tunney amendment.

I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I just want to say that the Senator from Texas states the issue very well. I have taken the position that we should not, in this emergency bill, which runs for only a year, attempt to pass permanent legislation. We have made provision here for a subsidy, an operating subsidy, in connection with local mass transit, in order to encourage lower fares, to bring about the kind of services and savings of fuel that we all seek. I think the Senate should realize this. The last thing I want to face—and I have great respect for the Senator from California, and I

voted, as the Senator knows, for the use of highway funds for mass transit—when we go to conference week after next is a situation in which we will be locked in for an indefinite period, over the single issue of mass transit at the expense of clearing the bill. That is the problem we face.

Mr. BENTSEN. Let me say to the Senator from Washington and the Senator from California that that is exactly what we will be facing in the House. It took 2½ months to bring out what, I think, is a very comprehensive bill.

Mr. JACKSON. If the Senator will yield again, I opposed amending the provisions of the law relating to the Outer Continental Shelf for the some reason. This is permanent legislation. Amendment after amendment which would allow a change in the permanent law has been offered. We opposed them because we are dealing here with an immediate emergency. We are staying in session to get the bill through. I hope we will be able to have it in the hands of the President next week. It is an emergency and requires expeditious measures.

Let me say to the Senator I shall be glad to support, at another time, a bill dealing with specific help in this area.

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

Mr. JACKSON. I do not have the floor.

Mr. BENTSEN. I think I still have the floor.

I would say along the lines of what the Senator from Washington has stated that I joined with him in the idea of not trying to establish permanent legislation in this emergency bill. The Senator knows how strongly I feel about regulations on the deregulation of gas. However, I joined in the unanimous consent request that the matter not be considered in this bill.

Mr. JACKSON. The Senator is correct. I did have an understanding with the Public Works Committee that on the issue of air quality standards, the matter would be handled by the Public Works Committee, and on the consideration of subsidies in mass transit that the matter would be handled by the Public Works Committee.

I carried out that understanding. And, of course, I will keep the agreement that I made with the chairman of the committee, the distinguished Senator from West Virginia.

Mr. TUNNEY. Mr. President, will the Senator yield for a question?

Mr. BENTSEN. I yield.

Mr. TUNNEY. Mr. President, the Senator from Washington and the Senator from Texas are talking in terms of an amendment to permanent legislation. The amendment which the Senator from New York (Mr. JAVITS) and I have introduced is not an amendment to any permanent legislation. This is an amendment to the emergency energy bill (S. 2589) for the duration of the energy emergency of 1 year. There is no change in the Federal Aid Highway Act whatever by virtue of this amendment.

Another point that I would like to clarify concerns the statement of the Senator from Texas regarding moneys being available in the very near future for mass transit. No Federal money is presently available for carpooling. No Federal money is presently available for the operation and maintenance of mass transportation.

This is a critically important matter. It will be of critical importance in the future. We are talking in terms of having 10-percent or 15-percent unemployment in the future. It will not do anyone any good to have highways and an automobile if he does not have a job.

We must provide funds for car pooling money and for the operation and maintenance of mass transit. Only in these ways can we conserve scarce gasoline resources and allow more production of middle distillates by our refineries and more oil for the public utilities so that there will be more jobs.

Mr. BENTSEN. Mr. President, the Senator from California asked me to yield for a question.

Mr. President, I yield to the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I ask the Senator from Texas if it is not true under an amendment to the Federal Aid Highway Act of 1973 that car pooling is provided for.

Mr. BENTSEN. The Senator is correct. Under the TOPICS program, carpooling could be supported. The Senator asked a question and answered it before I had an opportunity to do so.

I yield to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, I know that my distinguished colleague from Arizona is seeking the floor. And I believe that he has a proper use for it.

I merely want to state my opposition to the amendment. I think it is another attempt to get highway funds which some people think are inexhaustible. I would remind the Senate that we have been at this the better part of the week. We have had, I think, 13 votes today. And I have been sitting here waiting for someone to suggest how we might solve the problem of limited fuel and oil. More trucks and buses are being built. Somehow we have to find some more oil and domestic oil within the domestic limits of this country.

I hope that before we get through with the bill it is clearly spelled out that once again American industry is free to go about this without the constant harassment they have had over the past 30 or 40 years. That is the problem. It is not a lot of the extraneous things that have been mentioned. I even hear that someone wants to change to daylight saving time. That is something that we do not want. My farmers in Arizona and the farmers all over America are suffering because they cannot get enough gasoline to harvest their crops. Because of the heavy rains they asked our farmers to plant more cotton. They had to have 20 percent more cotton, and they have 80 percent of the gas they formerly had to harvest that cotton.

We are not demanding the rationing of aviation fuel. If it were not for the fact that American airlines are now on strike, I am sure that we would now be asking for the rationing of aviation fuel.

What we are doing with this amendment is saying that we need more buses. I do not know how they can put more buses on the streets of Washington, D.C. I do not know of anything that fouls up the air more than the buses do. I do not know of anything that throws into the air more black smoke than the trucks on the highways.

In closing, I suggest that we ought to be encouraging the scientists to find something to replace gasoline and other fuel.

I hope that in the future my grandchildren will not have to stop every so often for gasoline. I hope that they can put something in their cars, boats, planes, or any other transportation vehicle that might take them to their destination.

I oppose the amendment. I think it is a bad place in which to bring it up.

I hope that the amendment will be roundly defeated.

Mr. FANNIN. Mr. President, we have spent almost 45 minutes on the amendment. Other Senators have amendments to offer, which they should have an opportunity to explain.

I move to table the Tunney amendment No. 679, as modified.

Mr. MAGNUSON. Mr. President, will the Senator from Arizona yield 10 seconds of his time?

The PRESIDING OFFICER. The Chair would ask the Senator from Arizona to yield back the remainder of his time before making his motion.

Mr. FANNIN. I can withdraw the motion.

The PRESIDING OFFICER. Otherwise, the motion may not be offered.

Mr. FANNIN. Mr. President, I ask unanimous consent that I may withhold my motion for 10 seconds.

Mr. MAGNUSON. Mr. President, 10 seconds would allow the Senator from Nevada to send an amendment to the desk. That is all that is desired.

Mr. FANNIN. I would be pleased to yield for that purpose.

Mr. CANNON. Mr. President, I send that amendment to the desk.

The PRESIDING OFFICER. That requires unanimous consent.

Mr. TUNNEY. Mr. President, reserving the right to object——

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Mr. President, is this an amendment to the amendment?

Mr. MAGNUSON. It is not. It is merely an amendment to the bill. The Senator from Nevada merely wants a chance to lay it on the desk.

The PRESIDING OFFICER. Is the Senator calling it up?

Mr. CANNON. I am not calling it up.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CANNON. Mr. President, I ask unanimous consent that I be permitted to call up the amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada?

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. TUNNEY. Mr. President, reserving the right to object, does this amendment affect the amendment pending before the Senate?

Mr. CANNON. It does not affect the pending amendment.

Mr. FANNIN. Mr. President, the Senator from Nevada sent an amendment to the desk which I understand will be considered before the final vote.

Mr. TUNNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BUCKLEY. Mr. President, I wish to express my opposition to the amendment proposed by the distinguished Senator from California (Mr. TUNNEY). While I have supported efforts to allow greater use of highway trust funds for use on urban mass-transit systems, I believe that this amendment is both unwise and largely unnecessary at this time.

Earlier this year, the Congress adopted major changes in the scope of the highway trust fund. Under language that is now a part of section 142 of title 23 of the Code, moneys authorized for the Federal-aid urban systems will be available for urban mass transit purposes.

Under the terms of Public Law 93-87—the Federal-Aid Highway Act of 1973—States may utilize up to $200,000,000 of these urban funds for the purchase of buses during fiscal year 1975. As a practical matter, I believe that this is all that can be reasonably accomplished within this tight time period. Then in fiscal year 1976, the act allows the full $800,000,000 authorized for the Federal-aid urban system to be available for mass transit purposes, including new subway systems and rolling stock for subways.

I should point out that the fiscal year 1975 funds will be apportioned next month, so that the cities may begin within weeks to contract for the acquisition of buses to improve their mass transit systems.

In addition, the law created a mechanism for switching moneys now dedicated to various urban segments on the Interstate Highway system to local mass-transit construction, if the affected city and State can agree and if the change is approved by the Department of Transportation.

These two options, in conjunction with funds available under the Urban Mass Transportation Act, will provide local agencies with the flexibility they must have to effectively meet the mass transit needs of our cities.

In addition, Mr. President, most of the items specified in the amendment—such as fringe parking lots, preferential bus lanes—are now permitted under existing law.

I should note that the most significant effect of this amendment is that it authorizes the use of urban system funds for mass transit operating and fare subsidies. As my colleagues know, the Senate and the House have passed bills authorizing operating subsidies. This bill is now in conference. That is where this issue should be resolved, and not in emergency legislation hastily papered together. Money authorized for improvements to urban mass transit should not be diverted to operating subsidies by floor amendment while the issue is now being more appropriately handled in conference.

Mr. President, I commend the distinguished chairman of the Committee on Public Works (Mr. RANDOLPH) for his position on this amendment.

I shall, therefore, oppose this bill.

Mr. FANNIN. Mr. President, I move to table the Tunney amendment No. 679, as modified.

Mr. JACKSON. Mr. President, may I restate a unanimous-consent request?

The PRESIDING OFFICER. The Chair would rule that debate is not in order. A motion to table is not debatable.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second (putting the question). There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Tunney amendment, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that, if present and voting, the Senator from Masachusetts (Mr. KENNEDY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. McCLURE) is absent on official business.

The Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 60, nays 27, as follows:

[No. 506 Leg.]

YEAS—60

Aiken	Byrd, Harry F., Jr.	Dominick
Bartlett	Byrd, Robert C.	Eastland
Bayh	Cannon	Ervin
Bellmon	Chiles	Fannin
Bennett	Church	Fulbright
Bentsen	Cook	Goldwater
Bible	Dole	Gravel
Buckley	Domenici	Griffin
Burdick	Hansen	Gurney
Hartke	Magnuson	Scott, Hugh
Haskell	Mansfield	Scott, William L.
Hatfield	McClellan	Stafford
Helms	McGee	Stennis
Hollings	McGovern	Stevens
Hruska	McIntyre	Symington
Hughes	Montoya	Talmadge
Humphrey	Nunn	Thurmond
Jackson	Pearson	Tower
Johnston	Randolph	Young
Long	Roth	
	Saxbe	

NAYS—27

Abourezk	Hathaway	Pell
Beall	Inouye	Proxmire
Biden	Javits	Ribicoff
Brooke	Mathias	Schweiker
Case	Metcalf	Stevenson
Clark	Moss	Taft
Cranston	Muskie	Tunney
Eagleton	Packwood	Weicker
Hart	Pastore	Williams

NOT VOTING—13

Allen	Fong	Nelson
Baker	Huddleston	Percy
Brock	Kennedy	Sparkman
Cotton	McClure	
Curtis	Mondale	

So the motion to lay on the table was agreed to.

Mr. HANSEN. Mr. President, I call up my unprinted amendment and ask for its immediate consideration. Mr. President——

The PRESIDING OFFICER (Mr. NUNN). The Chair is advised that no further debate is in order but the amendment can be called up and stated.

Mr. HANSEN. Mr. President, I ask unanimous consent——

Mr. JACKSON. Mr. President, I am prepared to accept the amendment.

Mr. LONG. Mr. President, I ask that the amendment be read.

The PRESIDING OFFICER. The amendment will be stated.

Mr. JAVITS. Mr. President, may we have order in the Senate? We will not be able to hear anything unless we can hear what is being read.

The PRESIDING OFFICER. The Senate will please be in order. Will Senators please take their seats.

The legislative clerk read as follows:

S. 2589

To add a new section to Title 5:

"Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction and processing of, minerals, and for required transportation related thereto."

Mr. JACKSON. Voice vote, Mr. President.

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

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. The amendment will be stated.

Mr. HUMPHREY. Mr. President, I suggest that the clerk need not read it. I have discussed this with the distinguished chairman.

Mr. LONG. Mr. President, I object.

Mr. HUMPHREY. I want to state what it is, if I may, very briefly.

The PRESIDING OFFICER. The Chair

is advised that it will take unanimous consent for that, otherwise the clerk must report the amendment.

Mr. JACKSON. Mr. President, a voice vote on this.

SEVERAL SENATORS. Read it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In title V add a new subsection as follows:

"The Secretary of Transportation shall encourage the creation and expansion of the use of car pools as a viable component of our nationwide transportation system. It is the intent of this subsection to maximize the level of car-pool participation in America.

The Secretary of the U.S. Department of Transportation is directed to establish within the Department of Transportation an "Office of Car Pool Promotion" whose purpose and responsibilities will include—

responding to any and all requests for information and technical assistance on car pooling and car pooling systems from units of State and local governments and private groups and employees.

promoting greater participation in car pooling through public information and the preparation of such materials for use by State and local governments.

encouraging and promoting private organizations to organize and operate car-pool systems for employees.

promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of car-pool systems.

other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll reductions and other incentives as may be found beneficial to the furtherance of car-pool ridership.

The Secretary of Transportation is directed to allocate the funds appropriated pursuant to this Subsection according to the following distribution between the Federal and State or local units of government:

(a) The initial planning process—up to 100% Federal.

(b) The systems design process—up to 100% Federal.

(c) The initial start-up and operation of a given system—60% Federal and 40% State or local with the Federal portion not to exceed one year.

Within twelve months of enactment of this legislation the Secretary shall make a report to Congress of all its activities and expenditures pursuant to this Subsection. This shall include any recommendations as to future legislation concerning car-pooling.

The sum of $25 million is authorized to be appropriated for the conduct of programs designed to achieve the goals of this subsection, such authorization to remain available for two years.

Mr. HUMPHREY. Mr. President——

Mr. JACKSON. Mr. President, a voice vote on this.

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

Those who favor the amendment will say "aye." Opposed, "no."

Several Senators called for a division.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. 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 question is on agreeing to the amendment of the Senator from Minnesota.

As many as favor the amendment will say "aye." Opposed, "no."

Several Senators called for a division.

The PRESIDING OFFICER. A division is called for. On a division, the amendment was agreed to.

Several Senators addressed the Chair.

Mr. WILLIAM L. SCOTT. Mr. President, I ask for the yeas and nays on this matter.

SEVERAL SENATORS. It is too late—too late.

The PRESIDING OFFICER (Mr. TUNNEY). The vote has already been announced.

Mr. STEVENSON. Mr. President, I call up my modified amendment No. 695 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 26, after line 12, insert the following new paragraph:

(f) Order production from all Federal oil and gas leases that, on November 1, 1973, were classified as "producing, shut-in" by the United States Geological Survey. Failure by the lessee to produce oil or gas within one year of the date of such order shall result in forfeiture of such acreage classified "producing, shut-in": *Provided*, That such forfeiture shall not occur if the Secretary of the Interior, on the basis of his independent evaluation of the acreage's reserves, determines that production from such acreage is not technically, geologically, and economically feasible or would violate any applicable environmental requirement imposed by law or regulation: *Provided further*, That this subsection (f) shall not apply to the extent it results in a violation of the fifth amendment to the United States Constitution.

Several Senators addressed the Chair.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arizona will state it.

Mr. GOLDWATER. Do I understand correctly that debate is not in order now?

The PRESIDING OFFICER. That is correct.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. DOMINICK. Mr. President, we have voted on this once before. Why should we vote on it again?

Mr. HANSEN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. All those in favor will signify by saying "aye." All those opposed will signify by saying "no."

The ayes appear to have it.

Mr. JACKSON. I ask for a division, Mr. President.

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

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

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 49, nays 37, as follows:

[No. 507 Leg.]

YEAS—49

Aiken	Fannin	Nunn
Bartlett	Fulbright	Packwood
Beall	Goldwater	Pearson
Bellmon	Gravel	Roth
Bennett	Griffin	Saxbe
Bentsen	Gurney	Scott, Hugh
Bible	Hansen	Scott, William L.
Buckley	Hartke	Stafford
Byrd, Harry F., Jr.	Haskell	Stevens
Cannon	Hatfield	Taft
Cook	Helms	Talmadge
Dole	Hollings	Thurmond
Domenici	Hruska	Tower
Dominick	Long	Tunney
Eastland	Mathias	Weicker
Ervin	McClellan	Young
	Montoya	

NAYS—37

Abourezk	Hathaway	Moss
Bayh	Hughes	Muskie
Biden	Humphrey	Pastore
Brooke	Inouye	Pell
Burdick	Jackson	Proxmire
Byrd, Robert C.	Javits	Randolph
Case	Johnston	Ribicoff
Chiles	Magnuson	Schweiker
Church	Mansfield	Stevenson
Clark	McGee	Symington
Cranston	McGovern	Williams
Eagleton	McIntyre	
Hart	Metcalf	

NOT VOTING—14

Allen	Fong	Nelson
Baker	Huddleston	Percy
Brock	Kennedy	Sparkman
Cotton	McClure	Stennis
Curtis	Mondale	

So Mr. HANSEN's motion to table was agreed to.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. MOSS. Mr. President, I call up my amendment which is at the desk, entitled "Dealers Day in Court." The amendment is on the desk of each Senator, as well as a summary.

Mr. President, I ask unanimous consent that the amendment not be read.

The PRESIDING OFFICER. Is there objection?

SEVERAL SENATORS. I object.

The PRESIDING OFFICER. Objection is heard. The amendment will be read.

The legislative clerk read as follows:

SEC. 209. (a) As used in this section—

(1) "Distributor" means an oil company engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) "Franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) "Notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) "Petroleum product" means any liquid refined from oil and useable as a fuel.

(5) "Refiner" means an oil company engaged in the refinery or importing of petroleum products.

(6) "Retailer" means an oil company engaged in the sale of any petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnished prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

Mr. ROBERT C. BYRD. Mr. President, Senators asked that the clerk read the amendment. There should be order in the Chamber so Senators may hear it read.

The PRESIDING OFFICER. The Senate will be in order. The well will be cleared.

The clerk may proceed.

The legislative clerk resumed and concluded the reading of the amendment as follows:

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such a refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraph (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise.

A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist, including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and punitive damages where indicated, in suits under this section and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. The court may also grant an award for actual damages resulting from the cancellation, failure to renew, or termination of a franchise.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

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

Mr. MOSS. Mr. President, I ask unanimous consent to submit for the RECORD a written statement on the amendment which has been passed overwhelmingly by the Senate before.

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

STATEMENT BY MR. MOSS

The pending amendment is to provide to the people who distribute and sell refined petroleum products insurance that their leases will not be arbitrarily cancelled, terminated, or otherwise renewed.

When we consider S. 1570, the Emergency Fuel Allocation Bill, I was joined as a cosponsor in this amendment by Senators Magnuson, Pastore, Cannon, Stevenson, Kennedy, Ribicoff, and Saxbe. Unfortunately, for reasons which I cannot fathom, the Senate conferees receded from this provision without discussion, even though it had passed the Senate by an overwhelming vote on June 1. The language of the amendment is identical to the portion of S. 1570 providing for "Dealer Day in Court," and this language was accepted by the distinguished leader of the present bill when he said:

"It does get at a very serious problem, and it strengthens the bill, the basic problem being discrimination in the area of supply and price. It helps to protect the branded dealer as well as the independent dealer. I believe that it makes a lot of sense, and I think it should help to bring us through a very difficult period. . . ."

The amendment provides protection for branded dealers from arbitrary termination, cancellation, or failure to renew their leases or franchise agreements. Similar protection was provided to automobile dealers more than sixteen years ago with the passage by the Congress of Automobile Dealers' Day in Court legislation. The amendment provides that petroleum distributors and petroleum refiners may not arbitrarily cancel, fail to renew, or terminate a franchise unless several conditions are met. These are: first, that the franchisee failed to comply substantially with the essential and reasonable requirements of the franchise; second, that the franchisee failed to act in good faith in carrying out the terms of the franchise; and third, that the franchisor no longer is engaged in the sale of the products in question for resale.

The amendment is not designed, however, to insulate franchises in perpetuity. There are set forth appropriate defenses which will permit the franchisor to terminate the agreement when there is just cause.

Mr. President, the protection which this amendment provides is necessary. The hearing record of the Senate Anti-Trust and Monopoly Subcommittee and the Commerce Committee is replete with examples of arbitrary cut-offs, unilateral price increases, and termination of franchises. These problems, at a time of shortage, further compound the problems of the user and make a difficult situation even worse.

Testimony was received concerning the plight of the branded independent marketer. Eight jobbers in the Chicago area told of how they had been cut off from their supplies. This represented 58,600,000 gallons of gasoline in their marketing area, or 600,000 gallons of diesel, and 9,700,000 gallons of fuel oil. These jobbers represented more than 100 years of service in the area, 77 service stations, 275 commercial accounts, 611 farm accounts, and 3,500 residential accounts. Every one of these would be out of business and, along with them, 286 families directly working for or supplied by these jobbers would be unemployed. Not only would the toll of hardship upon the affected jobbers be substantial, but the disruption of service patterns which had been established over a long period of years would be thrown totally awry, in a period in which stability and a history of service are particularly necessary in order that each consumer has a continuing source of supply, even if the quantity must be reduced.

The toll in hardship and unemployment which would result were the amendment not to be adopted is of great magnitude. A review of the litigation which has been brought under the "Automobile Dealers' Day in Court" legislation which the Congress passed 16 years ago would be helpful to understand why the amendment which I put forth would not be burdensome upon the courts. The National Automobile Dealers' Association reports that, on the average, 25 cases are reported each year. Considering that there are more than 30,000 auto dealers to whom this legislation applies, it appears that action has been taken only one-tenth of one percent of the eligible cases. This kind of record over a long period of time demonstrates that the remedies proposed in the amendment will not present any burden on the court.

Mr. President, a vote for this amendment is a vote for a continued source of supply for the small businessman, and it is a vote against discrimination in the marketplace.

Mr. President, I was informed last week that the Mobil Oil Corporation has terminated the lease of every single branded independent gasoline retailer in the state of Connecticut that it supplies. Additionally, Mobil has told other leasees whose leases are becoming due that they will not renew any leases, and that Mobil will resort to the dealer/manager system rather than the dealer/owner system. Hundreds of branded independent retailers, who have spent years in developing their facilities, are being cast

out, without any remuneration for years of service, improvements in the facility, or their goodwill. If this trend continues, and there is no reason to believe that it will not, we may face the day soon when 225,000 independent branded retailers of gasoline and home heating oil are unemployed, and have lost their equity.

When we think of pyramid sales frauds and some of the unfortunate deals in which we know our constituents have found themselves, we see consistently an attempt by the small-time entrepreneur to make a quick buck. The branded independent retailer is not opting to make a quick buck. He is attempting to provide an important service, and the benevolence of his oil company supplier must certainly be questioned if this wholesale termination of leases takes place. It is critical that we act today on this emergency legislation to stop these arbitrary termination practices.

Mr. JACKSON. Mr. President, I am prepared to accept the amendment. Just a voice vote is sufficient.

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

The amendment was agreed to.

Mr. BUCKLEY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York proposes an amendment on page 34, between lines 2 and 3, insert a new section 314.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Does this amend the Jones Act that we previously voted on?

Mr. BUCKLEY. In a different manner. It provides for a case-by-case consideration. It does not provide for any blanket waiver.

Mr. JAVITS. Mr. President, what is the text of the amendment?

The PRESIDING OFFICER. The amendment will be read by text.

The legislative clerk read as follows:

On page 34, between lines 2 and 3, insert the following:

SUSPENSION OF CERTAIN COASTWISE SHIPPING RESTRICTIONS

SEC. 314. Notwithstanding the provisions of section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), or any other provisions of law to the contrary, the President may authorize on a case-by-case basis the transportation in vessels of foreign registry between particular points in the United States (including Puerto Rico and the possessions) of any product or material necessary for the production of heat or energy, upon determining (1) that there is a critical shortage of such product or material, dangerous to the public health and welfare, in the area of the point of delivery of such product or material, and (2) that United States vessels are not available to provide the necessary transportation of such product or material between such points.

On page 34, line 3, in lieu of "SEC. 314." insert "SEC. 315".

On page 34, line 6, in lieu of "SEC. 315." insert "SEC. 316".

Mr. JACKSON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Mr. President, the Senate, by an overwhelming rollcall vote, rejected an amendment which would waive the provisions of the Jones Act of 1920, referred to. The act provides that only American-flag vessels can operate in coastal and intercoastal waters. This amendment does the same thing in a different way. It occurs to me that we already have voted on it.

Mr. BUCKLEY. Mr. President, The Northeastern States are likely to experience a serious shortage of home heating oil this winter, with shortfalls reaching 40 percent or better in parts of New York and New England. The severity of the shortage will depend in no small part on our ability to transport oil from the Gulf States to the Northeast. It is my understanding, however, that there is an insufficient supply of American-flag shipping potentially available for this purpose. This situation is rendered doubly problematic by the provisions of the Jones Act which require that all shipping between American ports be conducted in U.S.-flag vessels.

The purpose of my amendment is to authorize the President to waive the Jones Act on a case-by-case basis, after a finding first, that there exists a critical shortage of energy products, dangerous to the health and welfare of a particular region; and second, that there are no American flag vessels in the coastwise trade available to transport these products from one American port to another. This amendment will not affect American jobs, but it may heat American houses.

Mr. JACKSON. I was just trying to make the point of order. This is Monday.

The PRESIDING OFFICER. The Chair has not had a chance to compare it with the other amendment.

Mr. JACKSON. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment [putting the question].

The motion to lay on the table is agreed to.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read the amendment, as follows:

At the end of title 5 add a new section as follows:

"SEC. 302. The President shall report to the Congress every 60 days, beginning December 1, 1973, on the administration of this Act and the Emergency Petroleum Allocation Act of 1973, and each report shall include specific information, nationally and by region and state, concerning staffing and other administrative arrangements taken to carry out programs under these Acts, together with specific budget estimates for such programs."

Mr. CLARK. Mr. President, I want to commend the distinguished Senator from Washington for his foresight in initiating this legislation 4 weeks ago, and I want to commend him and his colleagues on the Interior Committee, and members of the administration, for their diligence in welding this legislation into final form over the past 6 days, so that this Nation can deal with the current emergency as effectively and as soon as possible.

The bill is a testament to what is possible when a sincere, cooperative, bipartisan effort is put forth.

I feel that I must call attention, however, to what I consider a shortcoming in this legislation—the absence of a sufficiently specific mandate to the administration to report to the Congress its intentions for implementing the legislation's emergency programs.

This is not a major flaw, but it could have serious shortcomings—as I will discuss in a moment—and, since it can be easily corrected, I wish at this time to offer an amendment designed to accomplish that end.

It is not my intention to slow passage of the bill, or to burden it with unnecessary baggage. I simply wish to make sure that we are fully exercising our responsibility to the American public and that the potential of this bill is realized to its fullest.

As currently written, in referring to the administration's requirements for reporting its intentions back to the Congress, the bill merely states that "within 2 weeks after the date of enactment of this act, the President shall submit to Congress his proposals for the emergency contingency programs provided for in title II of this act, and proposals for implementing such programs."

The amendment I am proposing would add a new section 302 of the bill—to require that the President include in his report to Congress specific information on the budget, numbers of staff and distribution of staff required to implement both the National Energy Emergency Act and the Emergency Petroleum Allocation Act.

I feel this greater specificity of language is necessary for two reasons.

First, because of the broad, sweeping nature of the powers being given to the President in this bill, it seems essential that Congress do everything it can to assure that it will be able to exercise its responsibilities for oversight of the implementation of the bill to the fullest possible extent.

A specific mandate for specific proposals and specific plans will go much farther towards providing such an assurance than the present language of the bill.

We must frankly recognize that this kind of extension of power to the President carries some disturbing possibilities and that have an obligation to build adequate safeguards into this or any other legislation affecting the scope and power of any branch of government.

And, if nothing else, we should recognize that by requiring greater specificity from the administration as to its plans and proposals we are merely offering an opportunity for a greater degree of input on these plans and proposals—for a greater scrutiny that can only help guarantee the highest possible quality for the product we are trying to produce.

That is my second reason for asking that we require the administration to give us a more detailed accounting of what it plans to do and how it plans to

do it—if this administration's track record in implementing its mandatory allocation plans for propane gas and heating oil is any indication, its plan and proposals for implementing the emergency programs of this bill are going to need a lot of input and a lot of scrutiny.

Simply put, from everything I can determine, the administration's propane and heating oil mandatory allocation plans have so far been pathetic and ineffective flops.

The office of oil and gas, which has been charged with making the plans work, is—by its own admission—woefully understaffed, with only about one-fourth of the personnel it needs for the project, both in Washington, and in its regional offices.

Requests for assistance are apparently backlogged to the ceilings, little or no cooperation is apparently being received from the oil companies, and no muscle is being applied to make them cooperate.

One regional officer, who is attempting to serve four States with a total of three staff members and four phones, has told my office, for example, that "I do not even know where to turn anymore."

Things are apparently so bad that the Washington office is even having trouble getting through to its own regional offices by phone because the lines are so jammed up.

It is being stated that all of this is the fault of Congress—that Congress has failed so far to act on the supplemental appropriations bill which will provide additional funds for additional staff and equipment.

It is true that this appropriations bill is still in the House, and that perhaps Congress has been remiss in not pulling the appropriation for the Department of Oil and Gas out of the bill and speeding it through separately. I urge that this be done as soon as possible, so that we can get this thing working the way it should.

But it is not true that this situation is the fault of Congress—rather it is the direct result of the administration's own failure to request adequate funding at the proper time.

Congress, in fact, has been urging the administration to ask for more funds for the Office of Oil and Gas since last April, and the administration has fumbled or thrown the ball away at every step.

In April, the House Appropriations Committee told the administration that the $1 million appropriation it was seeking for the Office of Oil and Gas was not enough—the administration said it was.

Then, during markup of the Interior Department appropriations in June, the administration appeared with a request for $14.6 million, but it could give no clear indication of exactly what it would be used for. The committee agreed that appropriations should be increased, but said it was too late to include the increase in the bill, and the administration would have to ask for a supplemental appropriation.

This supplemental appropriation request was not submitted to Congress until October 18—16 days after the administration announced that it was beginning to implement a mandatory allocation plan for home heating oil in the next several weeks. And when this request was finally made, it was only for $10 million.

Currently, although administration officials have acknowledged that the Office of Oil and Gas needs $20 million, as a result of the worsening shortages caused by the cutoff of Arab oil, they have not increased the amount of their request.

Now, I do not see how any of this is Congress' fault. The administration can be excused for not asking for the sum it needs now back in January when the need was less clear, but it cannot be excused for failing to request the sums in a responsible way until more than 2 weeks after the plans were announced.

Perhaps this kind of bumbling is unique to this particular situation, but I am not sure it is. And I, for one, do not think we can afford to have it continue with the allocation program or happen again with this bill, during this winter, and in the midst of this kind of crisis of supply.

I do not think it is too much to ask that we take what steps we can to see that it does not continue, and I therefore urge your support of my amendment.

Mr. EAGLETON. Mr. President, I want to commend the junior Senator from Iowa (Mr. CLARK) for offering this important amendment and I am pleased to be a cosponsor.

No fuel rationing or conservation program established by this or any other bill will mean a thing unless it is adequately administered. Based on experience with fuel programs up to now, I don't think we have much cause for optimism.

At the present time, the Office of Oil and Gas is attempting to administer a mandatory propane and heating oil system and a voluntary gasoline allocation program with about 250 people, most of them detailed from other Federal agencies with no background in the work they are being asked to perform. Until very recently, the Kansas City, Mo., field office which handles all complaints and appeals from four Midwest States was staffed by only three people. I understand that may have been increased to six people in the last week.

Even so, it is virtually impossible to get any one in that office on the telephone, let alone to get action on a problem. Even the forms required to file an official complaint are unavailable.

I have one constituent who operates a fuel distribution company in a rural area of Missouri, serving mostly farm families. He has been refused any heating oil by his former supplier even though the mandatory heating oil regulations say he is entitled to it. On November 1, he filed an official complaint with the Kansas City office and he has yet to receive an answer. In the meantime, temperatures are regularly below freezing and his customers are running out of heating oil.

Nor does it do much good for a Senator or Congressman to try to bring such emergency situations to the attention of the Washington office. Last May 29, I brought an urgent problem involving a shortage of gasoline for farmers to the attention of Mr. Robert E. Plett, Administrator of the Office of Oil and Gas' voluntary petroleum allocation program. On August 3, more than 2 months later, my letter was acknowledged as follows:

> I apologize for the inordinate delay in answering your letter, but we have been literally swamped with letters and telephone inquiries since the inception of the petroleum allocation program.

That was no exception. It has become standard operating procedure in all of the programs now being administered. Now, I do not blame the Office of Oil and Gas because it is trying to work with the lick and the promise given to it by the administration.

I do fault the attitude prevalent in this administration that the energy emergency can be handled with a minimum of staff and effort. I think it is ludicrous for one of the administration's top energy advisors—Mr. Charles DiBona—to express more concern about "an expanding bureaucracy" than with the fuel problems that bureaucracy is trying to cope with.

There is no way that we can effectively meet these problems and see to it that the vital fuel needs of all Americans are met unless we have a functioning program. If that means hiring more people, if it means printing up forms, if it means opening up new offices and putting in new telephones, so be it. It must be done.

So I am happy to cosponsor and support the pending amendment which would require the administration to advise the Congress on a regular basis what it is doing to administer the fuel programs and what it needs to do a better job. I urge its adoption.

Mr. JACKSON. Mr. President, I am prepared to accept the amendment. It is just a reporting amendment.

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

The amendment was agreed to.

Mr. CANNON. Mr. President, I call up a technical amendment which I offer on behalf of the Committee on Commerce, which would condition the authority conferred upon the Civil Aeronautics Board in section 204 of this bill.

Mr. LONG. Mr. President, I ask unanimous consent that there be 10 minutes, equally divided, to discuss this amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that that be done. I was going to do it anyway. In view of the fact that we got an agreement Friday, it would be time well spent.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. That is, the time to be divided between the sponsor of the amendment and the Senator from Louisiana.

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

The clerk will report the amendment.

Will the Senator from Nevada send his amendment to the desk?

Mr. CANNON. It is already at the desk.

The legislative clerk read the amendment, as follows:

At page 20, line 8, strike out the words "the Civil Aeronautics Board".

At page 21, line 6, add a new paragraph as follows:

(2)(A) The Civil Aeronautics Board is authorized, subject to subparagraph (C), for the duration of the energy emergency, to review and make reasonable adjustments to the operating authority of air carriers authorized to engage in air transportation pursuant to section 401 of the Federal Aviation Act in order to conserve fuel while providing for the public convenience and necessity. Such adjustments may include but need not be limited to adjusting and rationalizing the operations of such air carriers with regard to frequency or level of service and points served and reviewing or adjusting rate schedules to reflect such adjustment and rationalization. Actions taken pursuant to this paragraph may be taken, notwithstanding any other provision of law after hearings in accordance with section 553 of title 5 of the United States Code.

(B) Certificated carriers are directed to immediately implement programs either unilaterally, or with Civil Aeronautics Board review and approval, multilaterally, aimed at reducing unnecessary flight frequencies and wasteful capacity, consistent with the requirements and obligations of their certificates, in order to conserve fuel.

(C) The Board's authority to make adjustments and rationalizations of frequencies and levels of service contained in this paragraph shall not be exercised unless a finding is made, upon notice and hearing, that the air carriers, acting on their own initiative, are unable or unwilling to take adequate actions to conserve fuel. Any person adversely affected by an action under paragraph (2) shall be entitled to a judicial review of such action in accordance with chapter 7 of title 5 of the United States Code.

Renumber the remaining paragraphs appropriately.

Mr. CANNON. Mr. President, while I generally support and applaud the provisions of S. 2589, there is one provision of this bill which deeply troubles me and a majority of the members of the committee on commerce. The provision, in section 204(b)(1), grants the Civil Aeronautics Board unprecedented and extraordinary authority to intervene in airline operations.

The fact that our committee is opposed to this authority for the Civil Aeronautics Board is not an indication that the Nation's airlines should not be forced to make sacrifices and cutbacks in order to save fuel. On the contrary, the airlines, as well as other common carriers, must cut back their flights, increase their productivity, and eliminate wasteful operations in order to conserve fuel. Presently there exists significant overcapacity in the Nation's scheduled airline system and this overcapacity exacerbates an already serious fuel shortage in the airline industry.

The air carriers and the CAB, recognizing the severity of the problem, have already taken action, unprecedented in the past, to reduce flight operations, curtail unnecessary frequencies and change operating procedures to meet the situation. In the past 30 days alone, the carriers, acting on their own initiative, have reduced operations by about 10 percent with a savings in fuel of about 800 million gallons on an annual basis.

More savings, however, are undoubtedly to be required and the carriers must continue to review their operations and cut wasteful and excessive capacity further. I and the members of my committee feel the carriers, acting with CAB guidance, can and will affect such cutbacks.

Given this background, we were strongly disturbed by the provision in this bill which in effect suspends the carefully written provisions of the Federal Aviation Act and allows the CAB to step in and virtually take over the management perogatives of the airline industry without any showing whatsoever that such authority is needed to deal with the emergency. Most troubling was the provision which, in effect, gave the board authority, under abbreviated administrative safeguards, to tamper with airline schedules. This authority, since 1938, has been carefully reserved to carrier management on the theory that airline management, rather than the CAB, has the expertise and know-how to schedule its flights to meet the public convenience and necessity.

In a spirit of cooperation and accommodation the Commerce Committee worked out with the managers of the bill a compromise on this question which is embodied in the amendment I have just offered.

Essentially, my amendment confers on the CAB the authority to step in and direct that changes be made in airline frequencies and levels of service consistent with the provisions of the Jackson bill as reported. However, my amendment would require that, before the board exercises this authority, the carriers must be given an opportunity on their own initiative to make needed changes, adjustments, and cutbacks adequate for the purposes of the maximum conservation of fuel. My amendment directs the carriers to do so, either unilaterally or, if the board approves, multilaterally. If, but only if, the carriers are unwilling or unable to affect the necessary changes or reductions would the CAB be authorized to direct such changes.

While I do not feel that such authority is called for or is necessary, I am willing to grant the authority contingent on a finding that airline management cannot do the job itself.

Mr. President, while this amendment does not reflect the position taken by my committee and I support it only reluctantly, it is offered in the spirit of compromise and expedition and is a way around a very difficult dilemma.

The Committee on Commerce has sole and exclusive jurisdiction over the transportation regulatory agencies and the statutes which govern their operation and authority. While we would have preferred to consider this bill in our committee, we waived our jurisdiction in order to expedite the process because of the national emergency. Nonetheless, we cannot abdicate our responsibility for oversight of the regulated transportation industry.

Mr. President, I am hopeful that the manager of the bill will accept this amendment and that the Senate will give it speedy approval.

Mr. LONG. Mr. President, I serve on the Commerce Committee. This amendment strikes me as one which favors vested interests and takes the attitude that the public be damned. I will explain why.

I never could understand why some airlines fly at such inconvenient times. For example, coming from Hawaii this way, the only way one can get to Washington seems to be by flying at night. If one tries to find out why he cannot leave there at 9 a.m. and come here during the day, they will find that the airlines can use their equipment more efficiently the way they do. They will fly at times most convenient to them, so they schedule their flights to leave here in the morning and one has to take the "Red-eye" flights to come back.

The reason for that is that the CAB has no right to fix those schedules. I was surprised to find that out. That same principle is being offered in this amendment.

This bill provides that, when airlines wanted to discontinue flights, the Civil Aeronautics Board would have something to say about it. Everybody knows the airlines make their money on the nonstop flights. The airlines make more money by flying nonstop, with a load of people, from here to Los Angeles than they would if they stopped five times between those two locations.

If we let the airlines decide on the flights, without having the CAB in position to decide which flights should continue or be discontinued, it would be to the advantage of the airlines to discontinue local stops and carry fully loaded planes on nonstop flights.

It is more inconvenient to me, but I would rather stop three times between here and New Orleans than to let the people of Charlotte, Birmingham, and Durham be denied adequate airline service.

The Interior and Insular Affairs Committee decided, quite correctly, I think, that the CAB ought to have some say, in the public interest, about which flights ought to be discontinued, because anybody knows it would be to the advantage of the airlines to continue fully loaded nonstop flights and discontinue milk run flights. But if we are going to serve the public interest, we ought to look and see how the public interest is affected.

As a member of the Committee on Commerce, I objected to this amendment. It makes it possible for the airlines to maximize their profits at the expense of the traveling public.

In a period of shortages, somebody ought to be concerned about the public interest. In this case, it ought to be the CAB. That is what the bill recommends. That is what the Interior and Insular Affairs Committee recommended. There is a substantial minority in the Commerce Committee which thought the CAB ought to have power to protect the public interest in the way I have suggested.

If the Senate votes for the Cannon amendment, Senators will have to go home and try to explain to the people

there why, when they had three local flights before, they now have only one. That is what this amendment would allow.

Why would the airlines prefer to do away with local flights rather than long-distance nonstop flights? Because they will make more money by maintaining the nonstop flights and discontinuing local flights. I think somebody ought to protect the public interest. It ought to be the CAB. The Interior and Insular Affairs Committee recommended this provision.

This amendment was not presented until about some 5 minutes before the limitation on debate went into effect. I am not making a claim that it should not have been presented that way, but we have not had an adequate chance to debate it. However, it makes it possible for the airlines to discontinue two or three local service flights, or even the only flight, without any government authority having the authority to protect the public interest. I think the amendment should be disagreed to.

Mr. CANNON. Mr. President, I would simply point out to my colleagues that what the Senator from Louisiana says could not be further from the truth. The Civil Aeronautics Board has at the present time the authority to protect the public interest, to see that flight schedules are maintained, and flight service from point A to point B, or from point A to point C, is maintained. That power is given to the board at the present time.

Congress has consistently over the years refused to grant the CAB the authority to handle the scheduling of the airlines. That is exactly what the bill would do if it stands as it is. We simply say that the board cannot schedule airline service. They have never been in the business of doing it before. They have never had that authority. We would continue it as it is now.

I direct the attention of my colleagues to the amendment. The amendment gives the board the authority, for the duration of the emergency, to review and make reasonable adjustments to the operating authority of air carriers authorized to engage in air transportation.

We want to cooperate. We want the board to have authority but we do not want them to have the authority to go out and intervene in a matter relating to decisions as between various points to be served in the United States.

The board has the authority and it is charged with the responsibility of protecting essential service. That is required throughout the country. That is exactly where we want to leave it—to follow the provisions of the Civil Aeronautics Act, and not to change the provisions of that act in an entirely unrelated matter or a distantly related matter, under the guise of energy conservation.

I yield to the distinguished chairman of the committee.

Mr. MAGNUSON. Mr. President, I do not like to disagree with my friend from Louisiana, but I do not care what time an airplane leaves or takes off—somebody does not like that hour. Somebody does like it; somebody does not.

All we are trying to say is that we should not take it to the CAB. The basic part of the act was established many years ago. We exempted all the other independent agencies here today by some of the Fannin amendments.

The ICC does not tell the railroad what hours the trains should run. They say they have to run trains between here and there. It does not tell railroads when the freight cars should go. Nor does the Maritime Board tell the shipping lines what time they have to leave on their tours of berth-to-berth operations.

All we are saying here is that this is an energy measure. Someone may not like the schedules. However, I do not care whether they leave at 1 o'clock, 6 o'clock, or at midnight. They still have 10,000 gallons of gasoline. In other words, before the airline may abandon a line, they have to go to the CAB.

I do not believe this belongs in this bill. I agree with the Senator from Louisiana. We all get a little disturbed once in awhile. All the airlines seem to leave from 4 to 8, and in the morning they come in at the same time. However, if they did not do that, they would not be able to accommodate most of the people who travel. They do not go out and say, "We are not going to accommodate the schedule for the people who travel."

I do not think this belongs in the bill. I think that the Commerce Committee ought to have some hearings on the matter the Senator from Louisiana talks about. And we will. However, we would have to have 10,000 people in the CAB to hear all of the complaints about a plane leaving at 1 o'clock instead of 2 o'clock, and 2 o'clock instead of 3 o'clock.

These are matters that they cannot do any more than the ICC can with respect to freight cars. It is impossbile. The Maritime Board cannot take care of these matters either.

The PRESIDING OFFICER. All of the time of the Senator has expired.

Mr. MAGNUSON. Mr. President, I hope the amendment will carry.

Mr. LONG. Mr. President, I ask for the yeas and nays.

Mr. MAGNUSON. I am sorry, I had my back turned.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second [putting the question]? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Idaho (Mr. CHURCH) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is absent on official business.

The Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) and the Senator from Illinois (Mr. PERCY) would each vote "nay."

The result was announced—yeas 36, nays 49, as follows:

[No. 508 Leg.]

YEAS—36

Bartlett	Ervin	Pearson
Bayh	Goldwater	Pell
Bellmon	Gravel	Randolph
Bennett	Griffin	Saxbe
Bible	Gurney	Stevens
Buckley	Hart	Stevenson
Byrd, Harry F., Jr.	Hartke	Symington
Byrd, Robert C.	Helms	Tower
Cannon	Hollings	Tunney
Domenici	Magnuson	Weicker
Dominick	McGee	Young
Eastland	McIntyre	
	Metcalf	

NAYS—49

Abourezk	Haskell	Muskie
Aiken	Hatfield	Nunn
Beall	Hathaway	Packwood
Bentsen	Hruska	Pastore
Biden	Hughes	Proxmire
Brooke	Humphrey	Ribicoff
Burdick	Inouye	Roth
Case	Jackson	Schweiker
Chiles	Javits	Scott, Hugh
Clark	Johnston	Scott, William L.
Cook	Long	Stafford
Cranston	Mansfield	Taft
Dole	Mathias	Talmadge
Eagleton	McClellan	Thurmond
Fannin	McGovern	Williams
Fulbright	Montoya	
Hansen	Moss	

NOT VOTING—15

Allen	Curtis	Mondale
Baker	Fong	Nelson
Brock	Huddleston	Percy
Church	Kennedy	Sparkman
Cotton	McClure	Stennis

So Mr. CANNON'S amendment was rejected.

Mr. BARTLETT. Mr. President, I call up my amendment which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 28, line 14, insert the following: after the word "energy" insert: "and an analysis of the effects of such actions, if implemented, upon increasing energy supplies."

Mr. JACKSON. Mr. President, I am prepared to accept the amendment.

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

The amendment was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the amendment of the Senator from Louisiana (Mr. JOHNSTON) considered earlier in the day.

Mr. JOHNSTON. Mr. President, I ask unanimous consent to withdraw the amendment. This is a far-reaching amendment that we will consider in committee next week. I think it will be con-

sidered favorably by the committee, but I think it more appropriate that it not be acted upon at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered. The amendment is withdrawn.

If there be no further amendment to be proposed the question is on the engrossment and third reading of the bill.

The bill (S. 2589) was ordered to be engrossed for a third reading and was read the third time.

INTENT OF COAL CONVERSION—SECTION 204(a)

Mr. JAVITS. Mr. President, it is my understanding and I wish to clarify this point with the Senator from Washington that the purposes of S. 2589 are to meet the short term needs of the Nation during the emergency period which is defined as being 1 year. In particular any conversion to coal or other fuels authorized or permitted by section 204(a) of this act shall be permitted for the purpose of reducing or eliminating the emergency declared by this act. Further, in directing a conversion to the burning of coal or other fuels which fuels I assume can include high sulfur oil under the Clean Air Act amendment, the President can only direct such action to meet the energy needs during this emergency period. And it is with this immediate energy situation in mind that appropriate action will be taken on the part of the Environmental Protection Agency. I had wanted to offer a short clarifying amendment to make these points explicit but I have been assured that this is the interpretation of the act shared by the Senator from Washington and that there was no need for an amendment on these points. Is my understanding correct?

Mr. JACKSON. The Senator is correct. Section 204(a) is a short-term provision designed to deal with the critical shortages we now face. The committee is, however, considering S. 2652, the National Coal Conversion Act, which would establish a long-term policy for substituting coal as a primary energy source for electrical powerplants and large industrial energy users.

Mr. INOUYE. Section 203 of the legislation states that the rationing and conservation program which the President is to promulgate 15 days after the date of enactment of the act shall include "a ban on all advertising encouraging increased energy consumption." I am concerned that this provision could mean a ban on tourism advertising. Although this is apparently not the intention of the bill, the statutory language is broad enough to be so construed. I would appreciate it if in a colloquy on the floor you might clarify just what the intention of this provision is.

Mr. JACKSON. The intent of the committee in including the language you refer to was to end advertisements encouraging wasteful and unnecessary energy consumption. It is my clear understanding that travel advertisements represent a legitimate and necessary business activity on the part of the tourism industry, and would not be included in the kinds of ads to be banned.

Mr. GOLDWATER. Mr. President, when this bill was first introduced to the floor, I thought it had merit and I intended to vote for it, but during the days of debate and amendments, and particularly this last day when the bill was so changed, emasculated and affected by amendments offered and accepted without debate, I must register my protest. In the nearly 18 years I have served in this body, I do not believe I have ever seen the Senate worse than it was today. We have passed an action that will not contribute one bit to the solution of the problem which is an inadequacy of fuel. We have added amendments, many of which, in effect would circumvent existing law, existing agencies, and will play havoc with our free markets. For these and other reasons I will vote against the bill.

Mr. DOLE. Mr. President, the Emergency Energy Act is a broad and sweeping proposal. It attempts to deal with a significant problem in America by granting extraordinary powers to the President, curtailing the application of several major laws and generally opening the door to an unprecedented Federal program for limiting energy consumption in the United States.

Of course, these are critical times. No responsible public official or informed leader disputes the fact that this country is facing the most serious energy supply situation in its history. No one yet knows or can know how serious it will be, but forecasts range from isolated personal inconvenience and annoyance to widespread economic hardship and suffering.

The problem boils down to two major factors: First, we have not developed our vast domestic energy sources—including oil, natural gas and nuclear generating plants—as fully as we should have, so second, we have become overly and dangerously dependent on foreign sources.

RECORD OF ACTION AND INACTION

As we attempt to formulate a policy and a program to deal with the crisis, attempts to place blame or responsibility are of little use, and I will not do so. But it may be instructive to look back just a bit to see what has been done as well as what has not been done—to forestall or prevent the situation we are facing now.

The following statement is significant:

> For most of our history, a plentiful supply of energy is something the American people have taken very much for granted. In the past twenty years alone, we have been able to double our consumption of energy without exhausting the supply. But the assumption that sufficient energy will always be readily available has been brought sharply into question within the last year. The brownouts that have affected some areas of our country, the possible shortages of fuel that were threatened last fall, the sharp increases in certain fuel prices and our growing awareness of the environmental consequences of energy production have all demonstrated that we cannot take our energy supply for granted any longer.

Those were the opening words of the first Presidential message on energy ever sent to the Congress. It was submitted by President Nixon more than 30 months ago.

This message contained a 14-point program for the development of new and better energy sources and the conservation of the energy used by all consumers. That message was submitted on June 4, 1971.

On December 1, 1969, the following vote was taken in the Senate:

I ask unanimous consent to have the analysis of Senate vote No. 141, 91st Congress, first session, printed in the RECORD at this point.

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

TAX REFORM ACT OF 1969

Subject: Tax Reform Act of 1969 (H.R. 13270). Ellender-Stevens amendment to retain the 27½-percent depletion allowance for oil and gas (instead of cutting it to 23 percent as in the committee bill).

Action: The amendment was rejected.

The result was announced—Yeas 30, Nays 62, as follows:

YEAS—30

Allott, Bellmon, Bennett, Bible, Burdick, Cotton, Curtis, Dole, Dominick, Eastland.

Ellender, Fannin, Fulbright, Gurney, Hansen, Harris, Hruska, Long, Mansfield, McClellan.

McGee, Montoya, Murphy, Pearson, Stennis, Stevens, Thurmond, Tower, Yarborough, Young, N. Dak.

NAYS—62

Aiken, Allen, Baker, Bayh, Boggs, Brooke, Byrd, Va., Byrd, W. Va., Cannon, Case, Church, Cook, Cooper, Cranston, Dodd, Eagleton, Ervin, Fong, Goodell, Gore, Griffin.

Hart, Hartke, Hatfield, Holland, Hughes, Inouye, Jackson, Javits, Jordan, N.C., Jordan, Idaho, Kennedy, Magnuson, Mathias, McCarthy, McGovern, McIntyre, Metcalf, Miller, Mondale, Moss, Muskie.

Nelson, Packwood, Pastore, Pell, Prouty, Proxmire, Randolph, Ribicoff, Russell, Saxbe, Schweiker, Scott, Smith, Maine, Sparkman, Spong, Talmadge, Tydings, Williams, N.J., Williams, Del., Young, Ohio.

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Gravel, for.

NOT VOTING—7

Anderson, Goldwater, Hollings, Mundt, Percy, Smith, Ill., Symington.

Mr. DOLE. Now, I am sure that other statements, messages, and votes could be produced to support one shade of opinion or another. But the record should show—and it does—that some have recognized, for many years, the vital importance of this country being sufficient in its energy supplies, while others have not.

I cite these points from the public record, not in an effort to blame anyone for anything, but only to show that if certain actions had not been taken several years ago or if others had been taken at the time they were suggested, we might not be here today trying to decide how best to deal with an energy emergency.

If the depletion allowance had not been cut we might have had enough exploration in the country to reverse the trend of declining new discoveries. If some of the President's proposals—including the conservation measures—had been followed—we might not be so concerned today about where our next drops of heating oil, gasoline, and LP gas are coming from.

So I believe it is important to keep these points in mind as we consider the emergency energy act and all its ramifications.

A STRONG MEASURE

Let me say, quite frankly, that it is a strong bill. It grants the President immense power over the use, production and conservation of energy in our country. And these powers will touch every citizen. It provides for mandatory rationing, one of the strongest steps that can be taken to deal with any supply problem. It provides for heavy penalties for violating the act's programs. It contains authority for widespread governmental interference with the workings of business and industry by regulatory agencies. It carves out exceptions in the environmental structures of the Clean Air Act and the National Environmental Policy Act.

I would say to those who are in a rather constant state of alarm about the erosion of congressional power and the growth of Presidential power that they know what they are voting for. It is a strong bill. But it is no Gulf of Tonkin resolution. Everyone knows what the bill is and what it will do.

So let those who vote for the bill do so, but when these powers and provisions are put into effect, let them not go about the press gallery complaining and wailing about a President—any President—becoming a dictator. The Congress knows what it is doing and should accept responsiblity for it.

SUPPORT FOR ACT

Let me say in conclusion that I do support the bill—with some regret, however, that such a measure has been forced upon us by decades of wastefulness in the use of energy, years of ill-advised energy-related policies, and too many examples of short-sighted thinking by industry, Congress, the executive branch and the general public.

Perhaps some good will come out of the whole situation. Perhaps, since the Arab oil cutoff came this year, rather than next year or 5 years ahead, we will be able to avoid becoming intolerably dependent on foreign energy sources while there is still time to reestablish our self-sufficiency.

The President's call for a project of independence to meet our energy needs here at home by 1980 is one to which every American should respond.

We may face a difficult period until the job is done, but the requirement to do so is clear and we must unite in the effort. I believe America is capable of meeting the challenge—as it has done on so many other occasions in the past.

And I am hopeful that the Emergency Energy Act will prove to be a useful—if not entirely pleasant—step toward securing the energy resource future of our Nation.

I ask unanimous consent that the full text of the President's June 4, 1971, energy message be printed in the RECORD at this point.

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

ENERGY RESOURCES—THE PRESIDENT'S MESSAGE TO THE CONGRESS, JUNE 4, 1971

To the Congress of the United States:

For most of our history, a plentiful supply of energy is something the American people have taken very much for granted. In the past twenty years alone, we have been able to double our consumption of energy without exhausting the supply. But the assumption that sufficient energy will always be readily available has been brought sharply into question within the last year. The brownouts that have affected some areas of our country, the possible shortages of fuel that were threatened last fall, the sharp increases in certain fuel prices and our growing awareness of the environmental consequences of energy production have all demonstrated that we cannot take our energy supply for granted any longer.

A sufficient supply of clean energy is essential if we are to sustain healthy economic growth and improve the quality of our national life. I am therefore announcing today a broad range of actions to ensure an adequate supply of clean energy for the years ahead. Private industry, of course, will still play the major role in providing our energy, but government can do a great deal to help in meeting this challenge.

My program includes the following elements:

To Facilitate Research and Development for Clean Energy:

A commitment to complete the successful demonstration of the liquid metal fast breeder reactor by 1980.

More than twice as much Federal support for sulfur oxide control demonstration projects in Fiscal Year 1972.

An expanded program to convert coal into a clean gaseous fuel.

Support for a variety of other energy research projects in fields such as fusion power, magnetohydrodynamic power cycles, and underground electric transmission.

To Make Available the Energy Resources on Federal Lands:

Acceleration of oil and gas lease sales on the Outer Continental Shelf, along with stringent controls to protect the environment.

A leasing program to develop our vast oil shale resources, provided that environmental questions can be satisfactorily resolved.

Development of a geothermal leasing program beginning this fall.

To Assure a Timely Supply of Nuclear Fuels:

Begin work to modernize and expand our uranium enrichment capacity.

To Use Our Energy More Wisely:

A New Federal Housing Administration standard requiring additional institution in new federally insured homes.

Development and publication of additional information on how consumers can use energy more efficiently.

Other efforts to encourage energy conservation.

To Balance Environmental and Energy Needs:

A system of long-range open planning of electric power plant sites and transmission line routes with approval by a State or regional agency before construction.

An incentive charge to reduce sulfur oxide emissions and to support further research.

To Organize Federal Efforts More Effectively:

A single structure within the Department of Natural Resources uniting all important energy resource development programs.

THE NATURE OF THE CURRENT PROBLEM

A major cause of our recent energy problems has been the sharp increase in demand that began about 1967. For decades, energy consumption had generally grown at a slower rate than the national output of goods and services. But in the last four years it has been growing at a faster pace and forecasts of energy demand a decade from now have been undergoing significant upward revisions.

This accelerated growth in demand results partly from the fact that energy has been relatively inexpensive in this country. During the last decade, the prices of oil, coal, natural gas and electricity have increased at a much slower rate than consumer prices as a whole. Energy has been an attractive bargain in this country—and demand has responded accordingly.

In the years ahead, the needs of a growing economy will further stimulate this demand. And the new emphasis on environmental protection means that the demand for cleaner fuels will be especially acute. The primary cause of air pollution, for example, is the burning of fossil fuels in homes, in cars, in factories and in power plants. If we are to meet our new national air quality standards, it will be essential for us to use stack gas cleaning systems in our large power and other industrial plants and to use cleaner fuels in virtually all of our new residential, commercial and industrial facilities, and in some of our older facilities as well.

Together, these two factors—growing demand for energy and growing emphasis on cleaner fuels—will create an extraordinary pressure on our fuel supplies.

The task of providing sufficient clean energy is made especially difficult by the long lead times required to increase energy supply. To move from geological exploration to oil and gas well production now takes from 3 to 7 years. New coal mines typically require 3 to 5 years to reach the production stage and it takes 5 to 7 years to complete a large steam power plant. The development of the new technology required to minimize environmental damage can further delay the provision of additional energy. If we are to take full advantage of our enormous coal resources, for example, we will need mining systems that do not impair the health and safety of miners or degrade the landscape and combustion systems that do not emit harmful quantities of sulfur oxides, other noxious gases, and particulates into the atmosphere. But such systems may take several years to reach satisfactory performance. That is why our efforts to expand the supply of clean energy in America must immediately be stepped up.

1. Research and development goals for clean energy

Our past research in this critical field has produced many promising leads. Now we must move quickly to demonstrate the best of these new concepts on a commercial scale. Industry should play the major role in this area, but government can help by providing technical leadership and by sharing a portion of the risk for costly demonstration plants. The time has now come for government and industry to commit themselves to a joint effort to achieve commercial scale demonstrations in the most crucial and most promising clean energy development areas—the fast breeder reactor, sulfur oxide control technology and coal gasification.

a. *Sulfur Oxide Control Technology.*

A major bottleneck in our clean energy program is the fact that we cannot now burn coal or oil without discharging its sulfur content into the air. We need new technology which will make it possible to remove the sulfur before it is emitted to the air.

Working together, industry and government have developed a variety of approaches to this problem. However, the new air quality standards promulgated under the Clean Air Amendments of 1970 require an even more rapid development of a suitable range of stack gas cleaning techniques for removing sulfur oxides. I have therefore requested funds in my 1972 budget to permit the Environmental Protection Agency to devote an

additional $15 million to this area, more than doubling the level of our previous efforts. This expansion means that a total of six different techniques can be demonstrated in partnership with industry during the next three or four years.

b. *Nuclear Breeder Reactor.*

Our best hope today for meeting the Nation's growing demand for economical clean energy lies with the fast breeder reactor. Because of its highly efficient use of nuclear fuel, the breeder reactor could extend the life of our natural uranium fuel supply from decades to centuries, with far less impact on the environment than the power plants which are operating today.

For several years, the Atomic Energy Commission has placed the highest priority on developing the liquid metal fast breeder. Now this project is ready to move out of the laboratory and into the demonstration phase with a commercial size plant. But there still are major technical and financial obstacles to the construction of a demonstration plant of some 300 to 500 megawatts. I am therefore requesting an additional $27 million in Fiscal Year 1972 for the Atomic Energy Commission's liquid metal fast breeder reactor program—and for related technological and safety programs—so that the necessary engineering groundwork for demonstration plants can soon be laid.

What about the environmental impact of such plants? It is reassuring to know that the releases of radioactivity from current nuclear reactors are well within the national safety standards. Nevertheless, we will make every effort to see that these new breeder reactors emit even less radioactivity to the environment than the commercial light water reactors which are now in use.

I am therefore directing the Atomic Energy Commission to ensure that the new breeder plants be designed in a way which inherently prevents discharge to the environment from the plant's radioactive effluent systems. The Atomic Energy Commission should also take advantage of the increased efficiency of these breeder plants, designing them to minimize waste heat discharges. Thermal pollution from nuclear power plants can be materially reduced in the more efficient breeder reactors.

We have very high hopes that the breeder reactor will soon become a key element in the national fight against air and water pollution. In order further to inform the interested agencies and the public about the opportunities in this area, I have requested the early preparation and review by all appropriate agencies of a draft envrionmental impact statement for the breeder demonstration plant in accordance with Section 102 of the National Environmental Policy Act. This procedure will ensure compliance with all environmental quality standards before plant construction begins.

In a related area, it is also pertinent to observe that the safety record of civilian power reactors in this country is extraordinary in the history of technological advances. For more than a quarter century—since the first nuclear chain reaction took place—no member of the public has been injured by the failure of a reactor or by an accidental release of radioactivity. I am confident that this record can be maintained. The Atomic Energy Commission is giving top priority to safety considerations in the basic design of the breeder reactor and this design will also be subject to a thorough review by the independent Advisory Committee on Reactor Safeguards, which will publish the results of its investigation.

I believe it important to the Nation that the commercial demonstration of a breeder reactor be completed by 1980. To help achieve that goal, I am requesting an additional $50 million in Federal funds for the demonstration plant. We expect industry—the utilities and manufacturers—to contribute the major share of the plant's total cost, since they have a large and obvious stake in this new technology. But we also recognize that only if government and industry work closely together can we maximize our progress in this vital field and thus introduce a new era in the production of energy for the people of our land.

c. *Coal Gasification.*

As we carry on our search for cleaner fuels, we think immediately of the cleanest fossil fuel—natural gas. But our reserves of natural gas are quite limited in comparison with our reserves of coal.

Fortunately, however, it is technically feasible to convert coal into a clean gas which can be transported through pipelines. The Department of the Interior has been working with the natural gas and coal industries on research to advance our coal gasification efforts and a number of possible methods for accomplishing this conversion are under development. A few, in fact, are now in the pilot plant stage.

We are determined to bring greater focus and urgency to this effort. We have therefore initiated a cooperative program with industry to expand the number of pilot plants, making it possible to test new methods more expeditiously so that the appropriate technology can soon be selected for a large-scale demonstration plant.

The Federal expenditure for this cooperative program will be expanded to $20 million a year. Industry has agreed to provide $10 million a year for this effort. In general, we expect that the Government will continue to finance the larger share of pilot plants and that industry will finance the larger share of the demonstration plants. But again, the important point is that both the Government and industry are now strongly committed to move ahead together as promptly as possible to make coal gasification a commercial reality.

d. *Other Research and Development Efforts.*

The fast breeder reactor, sulfur oxide controls and coal gasification represent our highest priority research and development projects in the clean energy field. But they are not our only efforts. Other ongoing projects include:

Coal Mine Health and Safety Research. In response to a growing concern for the health and safety of the men who mine the Nation's coal and in accordance with the Federal Coal Mine Health and Safety Act of 1969, the Bureau of Mines research effort has been increased from a level of $2 million in Fiscal Year 1969 to $30 million in Fiscal Year 1972.

Controlled Thermonuclear Fusion Research. For nearly two decades the Government has been funding a sizeable research effort designed to harness the almost limitless energy of nuclear fusion for peaceful purposes. Recent progress suggests that the scientific feasibility of such projects may be demonstrated in the 1970s and we have therefore requested an additional $2 million to supplement the budget in this field for Fiscal Year 1972. We hope that work in this promising area will continue to be expanded as scientific progress justifies larger scale programs.

Coal Liquefaction. In addition to its coal gasification work, the Department of the Interior has underway a major pilot plant program directed toward converting coal into cleaner liquid fuels.

Magnetohydrodynamic Power Cycles. MUD is a new and more efficient method of converting coal and other fossil fuels into electric energy by burning the fuel and passing the combustion products through a magnetic field at very high temperatures. In partnership with the electric power industry, we have been working to develop this new system of electric power generation.

Underground Electric Transmission. Objections have been growing to the overhead placement of high voltage power lines, especially in areas of scenic beauty or near centers of population. Again in cooperation with industry, the Government is funding a research program to develop new and less expensive techniques for burying high voltage electric transmission lines.

Nuclear Reactor Safety and Supporting Technology. The general research and development work for today's commercial nuclear reactors was completed several years ago, but we must continue to fund safety-related efforts in order to ensure the continuance of the excellent safety record in this field. An additional $3 million has recently been requested for this purpose to supplement the budget in Fiscal Year 1972.

Advanced Reactor Concepts. The liquid metal fast breeder is the priority breeder reactor concept under development, but the Atomic Energy Commission is also supporting limited alternate reactor programs involving gas cooled reactors, molten salt reactors and light water breeders.

Solar Energy. The sun offers an almost unlimited supply of energy if we can learn to use it economically. The National Aeronautics and Space Administration and the National Science Foundation are currently reexamining their efforts in this area and we expect to give greater attention to solar energy in the future.

The key to meeting our twin goals of supplying adequate energy and protecting the environment in the decades ahead will be a balanced and imaginative research and development program. I have therefore asked my Science Adviser, with the cooperation of the Council on Environmental Quality and the interested agencies, to make a detailed assessment of all of the technological opportunities in this area and to recommend additional projects which should receive priority attention.

2. Making Available the Energy Resources of Federal Lands

Over half of our Nation's remaining oil and gas resources, about 40 percent of our coal and uranium, 80 percent of our oil shale, and some 60 percent of our geothermal energy sources are now located on Federal lands. Programs to make these resources available to meet the growing energy requirements of the Nation are therefore essential if shortages are to be averted. Through appropriate leasing programs, the Government should be able to recover the fair market value of these resources, while requiring developers to comply with requirements that will adequately protect the environment.

To supplement the efforts already underway to develop the fuel resources of the lower 48 States and Alaska. I am announcing today the following new programs:

a. *Leasing on the Outer Continental Shelf—An Accelerated Program.*

The Outer Continental Shelf has proved to be a prolific source of oil and gas, but it has also been the source of troublesome oil spills in recent years. Our ability to tap the great potential of offshore areas has been seriously hampered by these environmental problems.

The Department of the Interior has significantly strengthened the environmental protection requirements controlling offshore drilling and we will continue to enforce these requirements very strictly. As a prerequisite to Federal lease sales, environmental assessments will be made in accordance with Section 102 of the National Environmental Policy Act of 1969.

Within these clear limits, we will accelerate our efforts to utilize this rich source of fuel. In order to expand productive possibilities as rapidly as possible, the accelerated program should include the sale of new leases not only in the highly productive Gulf of Mexico, but also some other promising areas. I am therefore directing the Secretary

of the Interior to increase the offerings of oil and gas leases and to publish a schedule for lease offerings on the Outer Continental Shelf during the next five years, beginning with a general lease sale and a drainage sale this year.

b. *Oil Shale—A Program for Orderly Development.*

At a time when we are facing possible energy shortages, it is reassuring to know that there exists in the United States an untapped shale oil resource containing some 600 billion barrels in high grade deposits. At current consumption rates, this resource represents 150 years supply. About 80 billion barrels of this shale oil are particularly rich and well situated for early development. This huge resource of very low sulfur oil is located in the Rocky Mountain area, primarily on Federal land.

At present there is no commercial production of shale oil. A mixture of problems—environmental, technical and economic—have combined to thwart past efforts at development.

I believe the time has come to begin the orderly formulation of a shale oil policy—not by any headlong rush toward development but rather by a well considered program in which both environmental protection and the recovery of a fair return to the Government are cardinal principles under which any leasing takes place. I am therefore requesting the Secretary of the Interior to expedite the development of an oil shale leasing program including the preparation of an environmental impact statement. If after reviewing this statement and comments he finds that environmental concerns can be satisfied, he shall then proceed with the detailed planning. This work would also involve the States of Wyoming, Colorado and Utah and the first test lease would be scheduled for next year.

c. *Geothermal Energy.*

There is a vast quantity of heat stored in the earth itself. Where this energy source is close to the surface, as it is in the Western States, it can readily be tapped to generate electricity, to heat homes, and to meet other energy requirements. Again, this resource is located primarily on Federal lands.

Legislation enacted in recent months permits the Federal Government, for the first time, to prepare for a leasing program in the field of geothermal energy. Classification of the lands involved is already underway in the Department of the Interior. I am requesting the Secretary of the Interior to expedite a final decision on whether the first competitive lease sale should be scheduled for this fall—taking into account, of course, his evaluation of the environmental impact statement.

3. Natural gas supply

For the past 25 years, natural gas has supplied much of the increase in the energy supply of the United States. Now the relatively clean form of energy is in even greater demand to help satisfy air quality standards. Our present supply of natural gas is limited, however, and we are beginning to face shortages which could intensify as we move to implement the air quality standards. Additional supplies of gas will therefore be one of our most urgent energy needs in the next few years.

Federal efforts to augment the available supplies of natural gas include:

Accelerated leasing on Federal lands to speed discovery and development of new natural gas fields.

Moving ahead with a demonstration project to gasify coal.

Recent actions by the Federal Power Commission providing greater incentives for industry to increase its search for new sources of natural gas and to commit its discoveries to the interstate market.

Facilitating imports of both natural and liquefied gas from Canada and from other nations.

Progress in nuclear stimulation experiments which seek to produce natural gas from tight geologic formations which cannot presently be utilized in ways which are economically and environmentally acceptable.

This administration is keenly aware of the need to take every reasonable action to enlarge the supply of clean gaseous fuels. We intend to take such action and we expect to get good results.

4. Imports from Canada

Over the years, the United States and Canada have steadily increased their trade in energy. The United States exports some coal to Canada, but the major items of trade are oil and gas which are surplus to Canadian needs but which find a ready market in the United States.

The time has come to develop further this mutually advantageous trading relationship. The United States is therefore prepared to move promptly to permit Canadian crude oil to enter this country, free of any quantitative restraints, upon agreement as to measures needed to prevent citizens of both our countries from being subjected to oil shortages, or threats of shortages. We are ready to proceed with negotiations and we look to an early conclusion.

5. Timely Supplies of Nuclear Fuels

The Nation's nuclear fuel supply is in a state of transition. Military needs are now relatively small but civilian needs are growing rapidly and will be our dominant need for nuclear fuel in the future. With the exception of uranium enrichment, the nuclear energy industry is now in private hands.

I expect that private enterprise will eventually assume the responsibility for uranium enrichment as well, but in the meantime the Government must carry out its responsibility to ensure that our enrichment capacity expands at a rate consistent with expected demands.

There is currently no shortage of enriched uranium or enriching capacity. In fact, the Atomic Energy Commission has substantial stocks of enriched uranium which have already been produced for later use. However, plant expansions are required so that we can meet the growing demands for nuclear fuel in the late 1970s—both in the United States and in other nations for which this country is now the principal supplier.

The most economical means presently available for expanding our capacity in this field appears to be the modernization of existing gaseous diffusion plants at Oak Ridge, Tennessee; Portsmouth, Ohio; and Paducah, Kentucky—through a Cascade Improvement Program. This program will take a number of years to complete and we therefore believe that it is prudent to initiate the program at this time rather than run the risk of shortages at a later date. I am therefore releasing $16 million to start the Cascade Improvement Program in Fiscal Year 1972. The pace of the improvement program will be tailored to fit the demands for enriched uranium in the United States and in other countries.

6. Using Our Energy More Wisely

We need new sources of energy in this country, but we also need to use existing energy as efficiently as possible. I believe we can achieve the ends we desire—homes warm in winter and cool in summer, rapid transportation, plentiful energy for industrial production and home appliances—and still place less of a strain on our overtaxed resources.

Historically, we have converted fuels into electricity and have used other sources of energy with ever increasing efficiency. Recent data suggest, however, that this trend may be reversing—thus adding to the drain on available resources. We must get back on the road of increasing efficiency—both at the point of production and at the point of consumption, where the consumer himself can do a great deal to achieve considerable savings in his energy bills.

We believe that part of the answer lies in pricing energy on the basis of its full costs to society. One reason we use energy so lavishly today is that the price of energy does not include all of the social costs of producing it. The costs incurred in protecting the environment and the health and safety of workers, for example, are part of the real cost of producing energy—but they are not now all included in the price of the product. If they were added to that price, we could expect that some of the waste in the use of energy would be eliminated. At the same time, by expanding clean fuel supplies, we will be working to keep the overall cost of energy as low as possible.

It is also important that the individual consumer be fully aware of what his energy will cost if he buys a particular home or appliance. The efficiency of home heating or cooling systems and of other energy intensive equipment are determined by builders and manufacturers who may be concerned more with the initial cost of the equipment than with the operating costs which will come afterward. For example, better thermal insulation in a home or office building may save the consumer large sums in the long run—and conserve energy as well—but for the builder it merely represents an added expense.

To help meet one manifestation of this problem, I am directing the Secretary of Housing and Urban Development to issue revised standards for insulation applied in new federally insured homes. The new Federal Housing Administration standards will require sufficient insulation to reduce the maximum permissible heat loss by about one-third for a typical 1200 square foot home—and by even more for larger homes. It is estimated that the fuel savings which will result each year from the application of these new standards will, in an average climate, equal the cost of the additional insulation required.

While the Federal Government can take some actions to conserve energy through such regulations, the consumer who seeks the most for his energy dollar in the marketplace is the one who can have the most profound influence. I am therefore asking my Special Assistant for Consumer Affairs—in cooperation with industry and appropriate Government agencies—to gather and publish additional information in this field to help consumers focus on the operating costs as well as the initial cost of energy intensive equipment.

In addition, I would note that the Joint Board on Fuel Supply and Fuel Transport chaired by the Director of the Office of Emergency Preparedness is developing energy conservation measures for industry, government, and the general public to help reduce energy use in times of particular shortage and during pollution crises.

7. Power Plant Siting

If we are to meet growing demands for electricity in the years ahead, we cannot ignore the need for many new power plants. These plants and their associated transmission lines must be located and built so as to avoid major damage to the environment, but they must also be completed on time so as to avoid power shortages. These demands are difficult to reconcile—and often they are not reconciled well. In my judgment the lesson of the recent power shortages and of the continuing disputes over power plant siting and transmission line routes is that the existing institutions for making decisions in this area are not adequate for the

job. In my Special Message to the Congress on the Environment last February, I proposed legislation which would help to alleviate these problems through longer range planning by the utilities and through the establishment of State or regional agencies to license new bulk power facilities prior to their construction.

Hearings are now being held by the Interstate and Foreign Commerce Committee of the House of Representatives concerning these proposals and other measures which would provide an open planning and decision-making capacity for dealing with these matters. Under the administration bill, long-range expansion plans would be presented by the utilities ten years before construction was scheduled to begin, individual alternative power plant sites would be identified five years ahead, and detailed design and location of specific plants and transmission lines would be considered two years in advance of construction. Public hearings would be held far enough ahead of construction so that they could influence the siting decision, helping to avoid environmental problems without causing undue construction delays. I urge the Congress to take prompt and favorable action on this important legislative proposal. At the same time steps will be taken to ensure that Federal licenses and permits are handled as expeditiously as possible.

8. The Role of the Sulfur Oxides Emissions Charge

In my environmental message last February I also proposed the establishment of a sulfur oxides emissions charge. The emissions charge would have the effect of building the cost of sulfur oxide pollution into the price of energy. It would also provide a strong economic incentive for achieving the necessary performance to meet sulfur oxide standards.

The funds generated by the emissions charge would be used by the Federal Government to expand its program to improve environmental quality, with special emphasis on the development of adequate supplies of clean energy.

9. Government Reorganization—An Energy Administration

But new programs alone will not be enough. We must also consider how we can make these programs do what we intend them to do. One important way of fostering effective performance is to place responsibility for energy questions in a single agency which can execute and modify policies in a comprehensive and unified manner.

The Nation has been without an integrated energy policy in the past. One reason for this situation is that energy responsibilities are fragmented among several agencies. Often authority is divided according to types and uses of energy. Coal, for example, is handled in one place, nuclear energy in another—but responsibility for considering the impact of one on the other is not assigned to any single authority. Nor is there any single agency responsible for developing new energy sources such as solar energy or new conversion systems such as the fuel cell. New concerns—such as conserving our fossil fuels for non-fuel uses—cannot receive the thorough and thoughtful attention they deserve under present arrangements.

The reason for all these deficiencies is that each existing program was set up to meet a specific problem of the past. As a result, our present structure is not equipped to handle the relationships between these problems and the emergence of new concerns.

The need to remedy these problems becomes more pressing every day. For example, the energy industries presently account for some 20 percent of our investment in new plant and equipment. This means the inefficiencies resulting from uncoordinated government programs can be very costly to our economy. It is also true that energy sources are becoming increasingly interchangeable. Coal can be converted to gas, for example, and even to synthetic crude oil. If the Government is to perform adequately in the energy field, then it must act through an agency which has sufficient strength and breadth of responsibility.

Accordingly, I have proposed that all of our important Federal energy resource development programs be consolidated within the new Department of Natural Resources.

The single energy authority which would thus be created would be better able to clarify, express, and execute Federal energy policy than any unit in our present structure. The establishment of this new entity would provide a focal point where energy policy in the executive branch could be harmonized and rationalized.

One of the major advantages of consolidating energy responsibilities would be the broader scope and greater balance this would give to research and development work in the energy field. The Atomic Energy Commission, for instance, has been successful in its mission of advancing civilian nuclear power, but this field is now intimately interrelated with coal, oil and gas, and Federal electric power programs with which the Atomic Energy Commission now has very little to do. We believe that the planning and funding of civilian nuclear energy activities should now be consolidated with other energy efforts in an agency charged with the mission of insuring that the total energy resources of the Nation are effectively utilized. The Atomic Energy Commission would still remain intact, in order to execute the nuclear programs and any related energy research which may be appropriate as part of the overall energy program of the Department of Natural Resources.

Until such time as this new Department comes into being, I will continue to look to the Energy Subcommittee of the Domestic Council for leadership in analyzing and coordinating overall energy policy questions for the executive branch.

CONCLUSION

The program I have set forth today provides the basic ingredients for a new effort to meet our clean energy needs in the years ahead.

The success of this effort will require the cooperation of the Congress and of the State and local governments. It will also depend on the willingness of industry to meet its responsibilities in serving customers and in making necessary capital investments to meet anticipated growth. Consumers, too, will have a key role to play as they learn to conserve energy and as they come to understand that the cost of environmental protection must, to a major extent, be reflected in consumer prices.

I am confident that the various elements of our society will be able to work together to meet our clean energy needs. And I am confident that we can therefore continue to know the blessings of both a high-energy civilization and a beautiful and healthy environment.

RICHARD NIXON.

THE WHITE HOUSE, *June 4, 1971*

Mr. FULBRIGHT. Mr. President, I am impressed by the views of the Senior Senator from Oregon, a member of the Committee on Interior and Insular Affairs. He is correct when he says in his minority views:

No one denies the seriousness of our energy problems, nor the need for creative solutions. I cannot understand, however, why Congress is so eager to throw away the leadership role it has established in finding solutions to our energy problems. . . . The Administration should suggest specific programs rather than seek a blank check. Congress should consider specific measures, not grant carte blanche authority.

Mr. President, this bill was brought to the floor after an absolute minimum of hearings and consideration on one of the most complex matters ever facing this country. This bill gives direct control to the President or his agents of every sector of the economic life of this country.

This bill will create a bureaucratic nightmare, the like of which this country has never seen.

I am unable to accept responsibility for the creation of such a nightmare.

We are confronted with two prospects, the short term and the long term.

In the short term, 3 to 5 years, there is no satisfactory alternative to the lifting of the embargo on oil from the Arab States.

To achieve this, we need to impress upon the Israeli Government the necessity of negotiating a settlement of the Middle East problem in accordance with the principles of the Security Council Resolution 242 of 1967. If such a settlement is brought about within the next 4 months and the embargo is lifted, the existing allocation authority would see us through unless we should have an unusually severe winter, in which case a limited rationing of fuel oil might be necessary. In any case, a resumption of access to Persian Gulf and African oil would make our problem manageable.

For the long term beyond 5 years, we can look to Alaskan oil, increased domestic production, and the utilization of our coal reserves for relief. These programs should proceed in any case because of balance-of-payments considerations. I believe there is no serious difference of opinions on this aspect of our problem.

The seriousness of the short-term crisis cannot be overstated. If this bill is enacted and as a result we are lulled into the attitude that we have taken significant action to solve our near-term problems, and therefore do not insist upon a settlement of the Arab-Israeli conflict, as a result of which the embargo is not lifted, it is more than probable that we shall have a serious disruption of our entire economy, with all the attendant hardship and disaffection which will further weaken the faith and confidence of our people in our political and economic systems.

Mr. BUCKLEY. Mr. President, no one questions the imperative need to authorize certain extraordinary measures if we are to cope with the current emergency. No one questions the fact that we must spread the impact of shortages in fuel oil and other petroleum products as equitably as possible through some method of allocation, or that we must immediately institute nondiscriminatory energy conservation measures so that we may stretch out our limited supplies.

Having said all this, I will vote against the National Energy Emergency Act as it has been reported out by the Interior Committee and further modified through floor amendments. I will do so because it is the only way I can underscore the

dangers and shortcomings of this otherwise essential legislation. If enough of my colleagues will signal their concerns by joining me in a negative vote, we may encourage the House to strike those provisions that vest unnecessary or harmful authority in the Executive.

As I see them, the following are the principal shortcomings of this legislation:

I fear that Congress will lull itself into a mistaken belief that the passage of this emergency authority will somehow absolve it from the responsibility to see that that emergency is of the shortest duration possible. The Congress has not yet acknowledged that the shortages of natural gas and refineries are in fact the result of interferences by Government in the marketplace. Nor does it cope with the shortages in refinery products and oilfield drilling equipment caused by the economic stabilization program. This bill fails to deal with the Federal Power Commission's regulation of the wellhead price of natural gas, a mistaken Federal energy policy which long ago destroyed adequate incentives to search for gas for commitment to interstate pipelines. The Senate has rejected amendments that sought to lift the economic controls that stultify the search for development of new sources of energy.

In the absence of such fundamental changes in Federal policy toward energy pricing, we are destined to see the current energy emergency develop into a chronic one on the basis of which Congress will be asked to institutionalize the extraordinary and dangerous delegation of power that S. 2589 bestows upon the Presidency.

Surely, if the price of scarce fuels and energy is permitted to rise, in response to market forces, rather than held down by Government regulation, industrial users and utilities will be forced to institute process changes which will conserve the use of energy; likewise, the ultimate consumer will begin to make choices based on the amount of energy which went into the products he buys, or on how he heats his home or how he chooses to travel.

In the short term, a system for allocating certain fuels will be required, for it takes time to augment our energy reserves under the stimulus of higher prices. But in the longer term, the best way to deal with a shortage is not to distribute the shortage among buyers, but to increase the supply by allowing consumers to communicate their wishes to producers through changes in prices in the marketplace. Congress and others responsible for the development of Federal energy policy must recognize this economic fact of life and respond accordingly.

In addition to tremendous risks inherent in the bestowal of wholesale authority to allocate goods, the bill contains several specific provisions which, in my opinion, go beyond the requirements of emergency legislation, provisions adopted without adequate hearings or thought that seem determined to live on long after the emergency has disappeared.

For example, section 204(c), in attempting to encourage the use of mass transit in preference for private automobiles, puts the Federal Government into the business of subsidizing reduced fares for mass transit, a response to the energy crisis, that, once initiated, would predictably become institutionalized. No hearings were held on this measure, nor were alternative incentives considered.

I am also concerned over the sections of the bill that legislate exceptions to the National Environmental Policy Act. I believe this approach to laws defining fundamental policy is unwise. If NEPA is judged to be inadequate to deal with short-term emergencies, the act itself should be amended to explicitly provide for such exceptions in an orderly fashion. To do otherwise simply invites a case-by-case attack on NEPA, with special interests seeking exemptions. Thus, rather than having a national environmental policy, we will have a policy which is applied only to the politically most vulnerable sectors of our society, and not to our society as a whole.

My own reading of the statute suggests that NEPA is sufficiently resilient to deal with the pending energy emergency. Federal agencies are required to file environmental impact statements prior to taking any action significantly affecting the environment "to the fullest extent possible."

Court decisions under NEPA have indicated that where a distinct emergency need exists, the mandate under section 102 can be fulfilled by expedited procedures tailored to the specific emergency measure.

Section 206 of the National Energy Emergency Act open NEPA up again to a new series of decisions. It certainly will not be clear in some instances whether actions which seek exemption from NEPA can be identified as being taken under the National Energy Emergency Act.

But even if I am in error in my analysis, the existence of NEPA cannot impede the kind of immediate, emergency action that is the sole justification of S. 2589. I speak of the authority to allocate scarce commodities and to institute conservation measures—action that must be taken immediately if we are to conserve our energy sources. Surely we could have considered in separate legislation any needs for streamlining NEPA procedures.

Section 203 of the bill also implies a judgment as to which uses of fuels or energy are "nonessential," and singles out specific enterprises, such as recreational activities, as being nonessential. I believe this provision to be discriminatory, for it gives the President the authority to determine on a class-by-class basis which uses of energy ought to be restricted. The hardships of the energy crisis could thereby fall disproportionately upon certain categories of businesses without adequate legislative consideration or procedural safeguards. It would be far better to limit the energy conservation measures to those which would apply broadly, such as temperature restrictions or reductions in speed limits. I, of course, realize that even this type of use restriction will inevitably result in inequities.

Several amendments were adopted during the debate on this bill on the Senate floor which extend the reach of existing Federal authority for providing unemployment insurance and disaster assistance relief to any individuals adversely affected by the energy crisis. Apart from the enormous bureaucratic problem of distinguishing between those who are adversely affected by the energy crisis and those who are adversely affected for other reasons, the Federal assistance provisions will not only become an enormous burden on the taxpayer, they will create precedents that will seek to have the Federal Government shield every one of its citizens against every conceivable hazard. This is something not even the United States can afford.

In short, the emergency energy bill grants excessive authority while failing to adopt measures best designed to bring the emergency to an early end.

Mr. BELLMON. Mr. President, while I recognize the emergency nature of the energy crisis currently facing the Nation, I cannot in good conscience support S. 2589 in its present form. The reason is simple. This bill attempts to deal superficially with the symptoms of a major problem which the Nation must someday face and solve. It does nothing to provide a solution to the basic problem. I refer to the unrealistic economic conditions facing the energy industry.

The energy crisis is no sudden development. This Nation has had a multitude of warnings from responsible and knowledgeable persons over the last decade that this condition was rapidly approaching. While demand for energy has been rising annually by some 600,000 barrels of crude oil per day the drilling of new wells has actually been declining each year until recently. The recent upturn is due to realistic, intrastate prices for gas and to the uncontrolled prices of new oil.

In the face of this decline, Congress added to the tax load of the petroleum industry. Also the administration has enforced harsh and unrealistic price controls. The result has been a low level of domestic oil activity causing a decline in petroleum reserves and a rapidly growing dependence upon imports from insecure sources.

Many Members of the Senate have warned repeatedly that this day would come. Numerous bills have been introduced by concerned Senators to help assure development of this Nation's abundant fossil fuel resources. I have introduced eight bills to help avoid this crisis. They are as follows:

In the 91st Congress: February 20, 1970, S. 3486—To establish a Commission on Oil Imports to impose quotas on petroleum and petroleum products.

In the 92d Congress:

February 25, 1971, Senate Joint Resolution 58—To establish a Joint Committee on Energy.

November 17, 1971, Senate Resolution 196—Commending the Federal Power Commission for permitting price increases.

March 20, 1972, S. 3376—To deregulate natural gas.

April 20, 1972, S. 3516—To establish a Joint Committee on Energy.

In the 93d Congress:

March 12, 1973, S. 1162—The National Energy Resources Development Act.

July 11, 1973, S. 2143—To exempt small natural gas producers from FPC price control.

September 11, 1973, S. 2400—To freeze 1974 vehicle emission standards until a complete review is conducted of standards and their impact upon U.S. economy and energy supplies.

Of these proposals, the National Energy Resources Development Act is the most comprehensive, containing the following provisions:

First, expands Joint Committee on Atomic Energy into Joint Committee on Energy;

Second, establishes the Office of Under Secretary of the Interior for Energy and Mineral Resources;

Third, establishes production payment and work performance guildelines for mineral leases;

Fourth, expands present lease offerings fivefold;

Fifth, establishes a Commission on Energy Utilization and Logistics;

Sixth, terminate FPC authority to regulate wellhead gas prices—new, immediately; old, over 3 years;

Seventh, provides for 1-percent increase in depletion allowance for each 5 percent of increased domestic production up to 10-percent increase in depletion;

Eighth, terminates foreign depletion allowance over a 3-year period;

Ninth, exempts energy companies from antitrust laws for purposes of conducting research; and

Tenth, authorizes the Secretary of Defense to purchase hydrocarbon products produced from coal or oil shale.

Unfortunately, none of these bills nor others with similar intent have ever seen the light of day. Rather they have languished in committee.

In the Interior appropriations bill, I was successful in obtaining an increase in research funds for secondary and tertiary recovery of oil and gas, but the Senate-House conferees reduced this amount which I am hopeful to restore in the supplemental appropriations legislation we are now considering.

Mr. President, there is no excuse for years of congressional and administration inaction. Nor is there any excuse now to bring before the Senate S. 2589 without including provisions aimed at permanently solving our energy problem. This bill will simply help preserve the status quo of energy starvation for the Nation. Its passageway only furthers the lethargy with which Congress has treated the Nation's energy malady. The time has come to face our energy problem squarely and begin working our way back to self-sufficiency.

Passage of this bill will delay action on legislation desperately needed to bring a lasting solution to the Nation's energy problem. It will postpone the deregulation of natural gas and crude oil prices, the gasification and liquefaction of coal, the development of oil and gas production on the Outer Continental Shelf, the production of known oil reserves through secondary and tertiary techniques and other essential basic steps to domestic energy self-sufficiency.

In an effort to strengthen S. 2589 so that the bill will not only deal with immediate energy emergencies at hand, but also to assure that this country will achieve a national self-sufficiency in energy, I have proposed a series of amendments.

One amendment would strengthen the language of section 207 by adding that the President is directed to increase energy supplies, not just for the duration of the emergency but also for the express purpose of achieving national self-sufficiency in energy.

I further propose to amend section 207 by placing in the hands of the States the responsibility to determine which oilfields can in fact be produced at maximum efficiency rate, rather than as the bill now stipulates that it be carried out by the Secretary of the Interior.

Also, the requirement that certain oilfields be produced above the maximum efficient rate of production. I feel, is very unwise and would jeopardize the long-range recovery potential of these fields and, therefore, I move to strike that section from the bill.

Additional amendments call for the establishment of production payments and work performance guidelines for mineral leases. This would encourage greater exploration activities by deferring lease payments until production is achieved, but nevertheless requiring a certain work performance so that leased land cannot be left idle.

Another amendment provides exemption of energy companies from antitrust laws for purposes of conducting research. Another provides for a 1-percent increase in the depletion allowance for each 5 percent of increased domestic production up to 10-percent increase in depletion, and termination of the foreign depletion allowance over a 3-year period. Finally, an amendment I have offered deals with the President's exercise of authority with respect to his control of domestic crude oil. It would prohibit the establishment of a price level which is below the price level of comparable imported crude oil. It further directs that the President shall permit the passthrough of increases in crude oil costs incurred to the retail level.

Mr. President, I feel that the adoption of these measures would greatly strengthen S. 2589 and would help to achieve the desired goal of dealing with an immediate emergency and at the same time provide for the kinds of mechanisms that will help this Nation achieve the goal the President has set, of achieving national self-sufficiency in energy.

The provisions of S. 2589 combined with measures to correct the unjust and impractical economic conditions which have brought on the present crisis would have merit. As presently written, containing as it does only emergency measures, passage of S. 2589 will only relieve the present pressures and postpone the solution of the basic causes of the Nation's energy problem. When the next crisis comes it will likely find the Nation even less prepared.

Once the present emergency is past, as it may be when Middle East oil again begins to flow, Congress and the country may again lapse back into its old energy lethargy. I urge the Senate to act in concert to solve both the Nation's present and long-range energy problems by defeating this measure and acting upon proposed legislation to deregulate natural gas and crude oil prices, assure production of oil and gas from coal and take other basic steps toward a lasting solution.

Mr. HATFIELD. Mr. President, I will not repeat my comments of last Thursday of why I oppose this bill. I only will note that we are abdicating our responsibilities to try and seek legislative solutions to our energy problems. When we in Congress get into a crunch, as we are, all the rhetoric about "congressional responsibility" seems to go out the window in our eagerness to pass the ball to the President. Congress need not become an administrative agency, but it should set policies. As a member of this committee, I know just how sweeping the powers are that we grant under the bill to one man—the President—or his agents.

We, the Congress, should wrestle with these tough policy decisions. We should hold hearings to gather public input—another fault in this grant of power to bureaucrats who can alter drastically the way we work and live without public input.

I believe many of those supporting this bill will have occasion to review their position, and to wish we had kept this authority to make decisions here in Congress.

Mr. President, I ask unanimous consent that my earlier floor remarks of last Thursday, which begin with my minority report on the bill and then go on to supplementary material, might appear at this point in the RECORD.

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

THE NATIONAL ENERGY EMERGENCY ACT—UNWISE LEGISLATION

When Congress first passed the Economic Stabilization Act, we told the President, in effect, "You solve the economic problems of the country." That legislation gave us Phases I through IV, with Pay Boards, Price Commissions, and Cost of Living Councils, prescribing controls, freezes and complex formulas, resulting in severe economic dislocations that have worked hardships on nearly every segment of American society—all without addressing the fundamental causes of our economic ills.

It is a simple truth that wage and price controls, in all their phases, have not worked. In approving that grant of power, Congress challenged the President to take such steps. This push from Congress, coupled with a favorable attitude fo the public, combined to produce an executive policy that has failed miserably.

But Congress has begun to grasp the magnitude of its abdication to the Executive branch. We struggle to reassert ourselves in the budgetary process, in confirmation powers and as initiators of—not just reactors to—policy and programs. Why then, in one sweeping gesture, by giving the President the authority to impose vast new controls, is Congress again willing to give away its responsibility and power over more of Federal government policy which affects so much of

American life? An examination of this bill shows we are ready to abdicate great responsibility for the manner in which the country will deal with another critical problem, our immediate energy situation.

As I said to my fellow Interior Committee members, if you liked the Economic Stabilization Act, you will love this emergency energy bill. I cannot think of a single sector of our economic life that will not be under the direct control of the President or his agents. Drastic alterations of people's personal and business lives can be implemented at the stroke of a pen.

No one denies the seriousness of our energy problems, nor the need for creative solutions. I cannot understand, however, why Congress is so eager to throw away the leadership role it has established in finding solutions to our energy problems.

I will not enumerate here the positive steps the Congress and the Interior Committee have taken, in spite of a reluctant Administration, on energy issues. As the Ranking Republican on the Appropriations Subcommittee on the Public Works and AEC budgets, I have cited impoundment after impoundment of energy-related funds.

The Administration should suggest specific programs, rather than seek a blank check. Congress should consider specific measures, not grant carte blanche authority.

In seeking solutions to our energy problems, Congress should continue to exercise its constitutional role in the Federal system. We can expect that after this bill is signed into law and soon after the first exercise of the enormous powers granted under this legislation, our legislative hoppers will be filled with bills to correct the new problems that the Executive's energy regulations are sure to bring. They will be sponsored by Members who will cite "Congressional responsibility."

The preference of Congress to centralize power further in the Executive is a factor that has brought this country to its present political crisis. This is the very psychology Congress should reject. The distribution of powers between Congress and the Executive is well summarized in this quotation from Justice Brandeis:

"Separation of powers was adopted by the convention in 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but by means of inevitable friction incident to the distribution of governmental powers among three departments, to save the country from autocracy."

Approval of this legislation transforms the phrase "Energy Czar" from a simple cliche to a chilling reality. Heating our homes through this winter need not be done at the cost of further entrenching Executive autocracy.

Supplemental floor remarks, not in minority views:

In granting such sweeping powers in S. 2589 to the President, Congress ignores an energy record of which it can be proud. One myth that should be set aside is that Congress is unable to deal with such issues as the energy shortage. We have had before us recently two examples that show just the opposite. I refer to the Alaska pipeline bill, technically the Federal Right-of-Way-Act, and the mandatory fuel allocation bill, S. 1570. The pipeline bill is on its way to the White House, and the mandatory allocation bill was passed yesterday by the Senate and it, too, is on its way to the White House. As a Senate conferee on both these bills, I believe they offer evidence that Congress is acting in a responsible manner to solve the energy crisis. The bills provide answers to both long-term and short-range problems. The pipeline bill deals with long-range problems of meeting energy needs, while the emergency fuel allocation bill addresses the current crisis. These represent legislated solutions that are constructive and forward-looking. Members of this body may disagree with certain provisions of one bill or the other, yet I think we should recognize that actions such as this provide evidence that we can buckle down and provide some solutions to energy problems. We should not be on the defensive about what some claim to be "inaction" or "unresponsiveness" of Congress. That just is not the case.

Other Senate Committees have worked on energy legislation, but I would repeat here what significant measures our Interior Committee has taken, in addition to the two mentioned above. During 1973, the Senate Interior Committee has reported four other major bills affecting energy. They are: S. 268, the land use bill; S. 245, the surfacing bill; S. 2176, the energy conservation bill, and S. 2589, the bill before us now. In addition, the energy research and development bill is at the mark-up stage. Hearings have been held and progress made on the deepwater ports bill, the strategic reesrves bill, and the new geothermal bill.

As I mentioned earlier in these remarks, I know of energy-related funds approved by Congress and currently under the thumb of OMB and unspent to meet energy needs. An examination of this list offers further evidence that Congress has been moving ahead in providing funding for projects already authorized, only to see the funds impounded. On our Appropriations Subcommittee where I serve as Ranking Republican—on Public Works and the AEC—our acting chairman, Mr. Bible, provided leadership in helping shape a bill that beefed up energy aspects of it, while cutting other segments of the Administration budget request. The appropriations bill signed into law was below the Administration's own budget request. This removes the charge from OMB that our subcommittee was in some way "budget busting."

When the list is examined, it shows OMB is sitting on some $20 million in energy-related funds. One portion already has been put in "budgetary reserve"—OMB jargon for impoundment. Other funds have been scheduled for "tentative 4th quarter apportionment." Money in this class has a habit of dropping through the cracks into the next fiscal year, and represents funds that could be spent now.

This list shows we have been acting on energy issues. The impounded funds include:

	Millions
Geothermal research	$4.7
Solar research	.6
Gas stimulation (Plowshare)	.8
Molten salt reactor	2.0
Fusion research	4.5
Los Alamos resources study center	.35
Pre-financing of above 3 AEC projects	4.3

The list of tentative spending raises special hackles for me for it includes $3 million in funds desperately needed to begin construction of a second powerhouse at Bonneville Dam, on the Columbia River. A group of thirteen other Western Senators joined me in a strong letter to Roy Ash, of OMB, urging immediate release of these funds, but they have not been spent. Funding of $900,000 for added power units at Little Goose and Lower Granite Dams on the lower Snake River also have not been released. I also know from service on the Interior Appropriations Subcommittee that OMB is holding up $1.5 million for a pilot plant for hydrogenation—turning wood waste into low-sulphur oil. Even if we recovered only 10% of the waste left in the woods in logging or at the mills, studies show we could produce enough oil to equal the amount of heating oil sold in my State of Oregon.

At a time of eroding trust in all government, I also question the wisdom of providing such carte blanche powers as are in this bill to one person, and providing for no citizen input in formulation of these far-reaching policies. The President, or his agents, will determine *if* certain steps are to be taken, *how* the steps should be taken, what priorities should be given—and the results could affect drastically the way we work and live. Under this legislation, these decisions are likely to be made behind closed doors, without public participation. Congressional review of specific energy proposals, however, allows such citizen input. The public would know it was their elected officials, and not some bureaucrats, that were shaping the legislation. I would add I am not suggesting that Congress should turn into an administrative agency handling the daily problems. In setting basic policies, we should give direction to those policies and shape the programs. These then could be administered by the various agencies and departments.

This lack of citizen input and the resulting isolation from the decision-making process touches upon another aspect of the problems between the Congress and the Executive. I need not belabor the obvious: the Administration is operating under a cloud resulting from Watergate-related incidents. I respectfully raise the question of whether it is wise to add this additional burden on the Executive branch at this time. When public acceptance of what may be severe alterations in their life styles is so critical, I do not believe this burden should be borne by the Executive branch, which is suffering so deeply from a crisis of public confidence and trust.

In conclusion, I believe the thrust of this bill to be in error. We are abdicating our responsibility. Congress should consider legislation in these various areas; we should review past and new Administration energy proposals; we should listen to citizen views. We—the Congress—should shoulder the responsibility for formulating short-term solutions to the energy crisis and continue our leadership role in devising long-range answers. I will repeat that a result of passage of this bill provides further entrenchment of executive autocracy.

Mr. HATFIELD. Mr. President, I would like to point out again one aspect of the committee report accompanying this bill, and highlight its importance. During our markup, I raised the possibility that emergency powers granted to the Civil Aeronautics Board under the bill might be used by the airlines to try and abandon service to the smaller cities across the country.

I need not point out to my colleagues what I am sure is true in most of our States. The airlines want to abandon those unprofitable or less profitable routes and strictly fly the "gravy routes"—where they can be assured a peak load-factor. I also have heard that, in my State, some of their actions remind me of what the railroads did to almost try to lose passengers. I have heard of schedule problems, publicity lags, and a general lack of interest in serving the smaller towns of my State. Conversations I hear in the cloakrooms indicates many other States have this same problem.

I call attention, therefore, to the language we included in the report, and ask unanimous consent that the key sentence appear at this point in the RECORD:

The Committee intended by this provision to allow reasonable measures to be taken for emergency fuel conservation, but to preclude carriers from using the opportunity so presented to drop nonprofitable or less profitable routes, points served, or serv-

ice areas, in a manner inconsistent with the public interest.

I also hope, Mr. President, that the CAB will monitor the airlines profit picture closely. If windfall profits develop because of the cutback in the number of flights, fare reductions would appear to be in order. As I said at the markup, I would hope that if it does appear the airlines are making huge profits from the greatly increased load factors, I hope the CAB will initiate proceedings to lower the fares. I do recognize, however, the airlines may well be paying more for fuel, and this may offset any increased revenues.

RECREATIONAL USE OF ENERGY

Mr. President, section 203(b)(2) says the President must come up with measures to reduce energy consumption that shall include restrictions on such "nonessential" uses as recreational activities. I would like to point out that recreation has generally been considered a basic public service, and as such it is covered elsewhere in section 203. Commercial recreational facilities need not be singled out, either, because they would also fall elsewhere in section 203 as "commercial establishments."

Besides this, however, I would like to ask my colleagues just what is a "recreational activity?" I submit it is a park playground for inner-city youth; it is a community and family recreation center; it is a publicly or privately sponsored program for the elderly or the handicapped; it is a youth or teen center; it is a library. It is often the only program or facility capable of providing meaningful activity for many citizens with more discretionary time on their hands than ever before. It can be the only program or facility which provides meaningful outlets for young people. For the elderly, it can be the difference between involvement and companionship and isolation and loneliness.

And where will these people go? They can go to the bars and taverns which may not be affected. They can hang around the drive-ins and hamburger stands which may not be affected. They can go to the late-hour stores. They can go to countless less essential establishments than recreational facilities.

We are talking about reducing work hours, redistributing schools hours, and rationing gasoline. People are not only going to have more discretionary time but will also be confined to services and activities close to home. Local recreational outlets and facilities will be expected to meet the increased demand. And yet section 203 singles them out as "nonessential."

All elements of both the public and private sector will be called upon to make sacrifices. This should probably include recreation; but recreation should not be singled out as a "nonessential use."

Mr. JACKSON. Mr. President, first, I should like to thank the Senator for raising this issue, one that should be clarified. I do not interpret section 203 to single out all recreation as nonessential. In my view the intent is to direct that such recreational activities as may be deemed nonessential by State and local governments be curtailed. This curtailment is one part of their program to meet the goals for reduction in energy consumption set forth in the bill.

The distinguished Senator from Oregon has set forth eloquently the need for public recreation. I concur in the observations he has made. I would suggest that, as provided for in the bill, the final determination on what curtailments of energy be made in the area of recreation is one which can best be made by the individual community.

THE MUSKIE AMENDMENT

Mr. CRANSTON. Mr. President, I would like to ask the distinguished Senator from Maine (Mr. MUSKIE) if he would agree that his amendment from the Public Works Committee, adopted last Thursday, was intended to insure that any conversion to coal or other fuels authorized or permitted by this act shall be permitted only to the extent necessary to reduce or eliminate the emergency declared by this act.

Mr. MUSKIE. Yes.

Mr. JACKSON. I concur in that understanding.

ADVERTISING

Mr. HARRY F. BYRD, JR. Mr. President, subsection 203(b)(2) of the pending legislation—on page 17, lines 13 and 14—states that one of the measures which the President must include in the rationing and conservation program is:

> A ban on all advertising encouraging increased energy consumption. . . .

I believe this language is subject to a variety of interpretations.

In some quarters—specifically the Virginia Travel Council—the fear has been expressed that it could result in a ban of travel advertising.

I wonder if the chairman would give the Senate the benefit of his interpretation of the intent of this language.

Mr. JACKSON. I agree with the Senator that it is important to be specific. At the same time, it is important to remember that we are indeed faced with a serious emergency and are attempting in S. 2589 to provide the President with the authority needed to issue more precisely drawn programs, accompanied by carefully and narrowly drawn regulations and guidelines, aimed at curtailing wasteful and nonessential uses of fuel and energy. The committee intends that the burdens of curtailing energy use be equitably distributed among all sectors of the economy and the population. This means that plans called for in S. 2589 must embody as many possible remedies for our energy and fuel shortage as possible.

A factor in the development of this emergency has been advertisments promoting wasteful and nonessential energy consumption. The committee has heard testimony that some utilities and other energy producers have in the past engaged in widespread advertising designed for no other purpose but to increase consumption of energy and fuel. This is the type of advertising the committee thinks should cease.

Travel advertisement is not directed toward an effort to create in the consumer a desire to waste energy. It is a legitimate sales effort by merchants to sell their services. Again, I feel that it falls into the right of a merchant to communicate in a responsible way with his customers and potential customers. I see nothing in such advertisement to incite wasteful consumption of energy.

THE IMPORTANCE OF SUBSECTION 202(C)

Mr. CHURCH. Mr. President, I call to the attention of the Senate an important subsection of S. 2589, the energy emergency bill. Subsection 202(c) terminates the declared nationwide energy emergency and the authority granted by the act 1 year after its date of enactment. The subsection also requires an interim report by the President to Congress 6 months after implementation of the act. The provision reads as follows:

> The declared nationwide energy emergency and the authority granted by this Act shall terminate one year after the date of enactment of this Act. Six months after the date of enactment of this Act, the President shall submit to the Congress an interim report on the implementation of the Act, together with such recommendations for amending or extending the Act as he deems appropriate.

My intention, as sponsor of this provision, and the intention of the committee in adopting it, was to avoid an open-ended delegation of the authority contained in the bill, and of the actions taken pursuant thereto.

If enacted into law, this subsection will alter an old congressional habit of giving extraordinary power to Presidents to meet particular crises, either foreign or domestic, without reserving the means to retrieve the power. Especially since 1933, it has been Congress habit to delegate extensive emergency authority and not to set a terminating date. Consequently, the United States now has on the books at least 470 significant emergency powers statutes without time limitations. These statutes delegate to the President extensive discretionary powers, ordinarily exercised by the Congress, which affect the lives of American citizens in a host of all-encompassing ways. This vast range of powers, taken together, confer enough authority to rule this country without reference to normal constitutional processes. These laws make no provision for congressional oversight nor do they reserve to Congress a means for terminating the "temporary" emergencies which trigger them into use.

These emergency powers statutes are invoked by a Presidential declaration of a state of national emergency. The United States has been in such a state of declared national emergency since March 9, 1933. In fact, there are now in effect four Presidentially proclaimed states of national emergency. In addition to the national emergency declared by President Roosevelt, there is also the national emergency proclaimed by President Truman on December 16, 1950, during the Korean conflict, plus the states of national emergency declared by President Nixon on March 23, 1970, and August 15, 1971. When the energy emergency before us, declared by Congress, becomes law, it will be a fifth emergency, added on top of the four now in existence.

Along with my distinguished colleague from Maryland (Mr. MATHIAS), pursuant to Senate Resolution 9, I cochair the Special Senate Committee on the Termination of the National Emergency which has been studying and investigating the states of national emergency in which we now find ourselves and the plethora of emergency powers that Congress has passed over the years.

The Special Committee on the Termination of the National Emergency was created to examine the consequences of terminating the declared states of national emergency that now prevail; to recommend what steps the Congress should take to insure that the termination can be accomplished without adverse effect upon the necessary tasks of governing; and, also, to recommend ways in which the United States can meet future emergency situations with speed and effectiveness but without relinquishment of congressional oversight and control.

In accordance with this mandate, the special committee—in conjunction with the executive branch, expert constitutional authorities, as well as former high officials of this Government—is now engaged in a detailed study to determine the most reasonable ways to restore normalcy to the operations of our Government.

Our work to date has influenced the inclusion of subsection 202(c) in the energy emergency bill. If it becomes law, I hope it means that Congress has kicked at last its bad habit of delegating without retrieving. I hope the precedent will help turn the tide back toward the legislative branch where it belongs. For, unless Congress takes such steps to strengthen its capacity to make the laws through the representative political process as the Constitution intended, then the unmistakable flow toward one-man government will continue.

Mr. President, I ask unanimous consent that two essays prepared by the able staff of the Special Committee on the Termination of the National Emergency be inserted in the RECORD. These essays are part of a publication put out by the special committee earlier this autumn, entitled "Emergency Powers Statutes," a compilation of provisions of Federal laws delegating to the Executive extraordinary authority in time of national emergency.

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

ESSAYS ON EMERGENCY POWERS

A—A BRIEF HISTORICAL SKETCH OF THE ORIGINS OF EMERGENCY POWERS NOW IN FORCE

A majority of the people of the United States have lived all of their lives under emergency rule. For 40 years, freedoms and governmental procedures guaranteed by the Constitution have, in varying degrees, been abridged by laws brought into force by states of national emergency. The problem of how a constitutional democracy reacts to great crises, however, far antedates the Great Depression. As a philosophical issue, its origins reach back to the Greek city-states and the Roman Republic. And, in the United States, actions taken by the Government in times of great crises have—from, at least, the Civil War—in important ways shaped the present phenomenon of a permanent state of national emergency.

American political theory of emergency government was derived and enlarged from John Locke, the English political-philosopher whose thought influenced the authors of the Constitution. Locke argued that the threat of national crisis—unforeseen, sudden, and potentially catastrophic—required the creation of broad executive emergency powers to be exercised by the Chief Executive in situations where the legislative authority has not provided a means or procedure of remedy. Referring to emergency power in the 14th chapter of his *Second Treatise on Civil Government* as "prerogative," Locke suggested that it:

"... should be left to the discretion of him that has the executive power . . . since in some governments the lawmaking power is not always in being and is usually too numerous, and so too slow for the dispatch requisite to executions, and because, also it is impossible to foresee and so by laws to provide for all accidents and necessities that may concern the public, or make such laws as will do no harm, if they are executed with an inflexible rigour on all occasions and upon all persons that may come in their way, therefore there is a latitude left to the executive power to do many things of choice which the laws do not prescribe."

To what extent the Founding Fathers adhered to this view of the executive role in emergencies is a much disputed issue. Whatever their conceptions of this role, its development in practice has been based largely on the manner in which individual Presidents have viewed their office and its functions. Presidents Theodore Roosevelt and William Howard Taft argued the proper role of the President and, perhaps, their debate best expounds diametrically opposed philosophies of the presidency. In his *Autobiography*, Roosevelt asserted his "stewardship theory":

"My view was that every Executive officer . . . was a steward of the people bound actively and affirmatively to do all he could for the people and not to content himself with the negative merit of keeping his talents undamaged in a napkin . . . My belief was that it was not only [the President's] right but his duty to do anything that the needs of the Nation demanded unless such action was forbidden by the Constitution or by the laws. Under this interpretation of executive power I did and caused to be done many things not previously done by the President and the heads of departments. I did not usurp power but I did greatly broaden the use of executive power. In other words, I acted for the common well being of all our people whenever and whatever measure was necessary, unless prevented by direct constitutional or legislative prohibition."

Roosevelt compared this principle of "stewardship" to what he called the Jackson-Lincoln theory, and contrasted it to the theory ascribed to William Howard Taft.

Roosevelt's ideas on the ambit of presidential authority and responsibility were vigorously disputed by Taft. In lectures on the presidency—delivered at Columbia University in 1915–1916—Taft responded that: "... the wide field of action that this would give to the Executive one can hardly limit. A President can exercise no power which cannot fairly and reasonably be traced to some specific grant of power." And he cautioned that: "... such specific grants must be either in the Federal Constitution, or in any Act of Congress passed in pursuance thereof. There is no undefined residuum of power which he can exercise because it seems to him to be in the public interest."

In recent years, most scholars have interpreted the Roosevelt-Taft dispute in Roosevelt's favor. In the prevailing academic view, Roosevelt is described as "active," "expansionist," and "strong." The historical reality, in fact, does not afford such a sharp distinction either between the actions of these two Presidents, or between their analysis of the problem of emergency powers. Taft, in his concluding remarks to his Columbia lectures, said: "Executive power is limited, so far as it is possible to limit such a power consistent with that discretion and promptness of action that are essential to preserve the interests of the public in times of emergency or legislative neglect or inaction." Thus, even Taft was disposed to employ emergency power when the need arose, but, he did not wish to go beyond his own narrower, conservative conception of what was meant by constitutional and legal bounds. Thus, the dispute was over where those bounds lay, rather than the nature of the office itself.

Taft's successor, Woodrow Wilson, was no less zealous in observing what he thought the Constitution demanded. Faced with the exigencies of World War I, Wilson found it necessary to expand executive emergency powers enormously. In many respects, this expansion of powers in wartime was based on precedents set by Lincoln decades earlier. Unlike Lincoln, however, Wilson relied heavily on Congress for official delegations of authority no matter how broadly these might be.

Wilson's exercise of power in the First World War provided a model for future Presidents and their advisors. During the preparedness period of 1915–1916, the submarine crisis in the opening months of 1917, and the period of direct involvement of U.S. armed forces from April 1917 to November 1918, Wilson utilized powers as sweeping as Lincoln's. Because governmental agencies were more highly organized and their jurisdictions wider, presidential powers were considerably more effective than ever before. Yet, perhaps, because of Wilson's scrupulous attention to obtaining prior congressional concurrence, there was only one significant congressional challenge to Wilson's wartime measures.

That challenge came in February-March 1917, following the severance of diplomatic relations with Germany. A group of Senators successfully filibustered a bill authorizing the arming of American merchant ships. In response—records American historian Frank Freidel in his book *Roosevelt: the Apprenticeship*—Assistant Secretary of the Navy Franklin D. Roosevelt found an old statute under which the President could proceed without fresh authorization from Congress. Roosevelt, impatient for action, was irritated because Wilson waited a few days before implementing the statute.

Lincoln had drawn most heavily upon his power as Commander-in-Chief; Wilson exercised emergency power on the basis of old statutes and sweeping new legislation—thus drawing on congressional delegation as a source of authority. The most significant Wilsonian innovations were economic, including a wide array of defense and war agencies, modeled to some extent upon British wartime precedents. In August 1916 just prior to United States entry into the war, Congress at Wilson's behest established a Council of National Defense—primarily advisory. In 1917, a War Industries Board, also relatively weak, began operating. The ineffectiveness of the economic mobilization led Republicans in Congress—in the winter of 1917–1918—to demand a coalition War Cabinet similar to that in England. Wilson forestalled Congress by proposing legislation delegating him almost total economic power and, even before legislative approval, authorized the War Industries Board to exercise extensive powers. Subsequently Congress enacted Wilson's measure, the Overman Act, in April 1918. Other legislation extended the economic authority of the Government in numerous directions.

Following the Allied victory, Wilson relinquished his wartime authority and asked Congress to repeal the emergency statutes, enacted to fight more effectively the war. Only a food-control measure and the 1917 Trading With the Enemy Act were retained. This procedure of terminating emergency powers when the particular emergency itself has, in fact, ended has not been consistently followed by his successors.

The next major development in the use of executive emergency powers came under Franklin D. Roosevelt. The Great Depression had already overtaken the country by the time of Roosevelt's inauguration and confronted him with a totally different crisis. This emergency, unlike those of the past, presented a nonmilitary threat. The Roosevelt administration, however, conceived the economic crisis to be a calamity equally as great as a war and employed the metaphor of war to emphasize the depression's severity. In his inaugural address, Roosevelt said: "I shall ask the Congress for the one remaining instrument to meet the crisis—broad executive power to wage a war against the emergency, as great as the power that would be given to me if we were in fact invaded by a foreign foe."

Many of the members of the Roosevelt administration, including F.D.R. himself, were veterans of the economic mobilization of World War I and drew upon their experiences to combat the new situation. The first New Deal agencies, indeed, bore strong resemblance to wartime agencies and many had the term "emergency" in their titles—such as the Federal Emergency Relief Administration and the National Emergency Council.

In his first important official act, Roosevelt proclaimed a National Bank Holiday on the basis of the 1917 Trading With the Enemy Act—itself a wartime delegation of power. New Deal historian William E. Leuchtenburg writes:

"When he sent his banking bill to Congress, the House received it with much the same ardor as it had greeted Woodrow Wilson's war legislation. Speaker Rainey said the situation reminded him of the late war when "on both sides of this Chamber the great war measures suggested by the administration were supported with practical unanimity. . . . Today we are engaged in another war, more serious even in its character and presenting greater dangers to the Republic." After only 38 minutes debate, the House passed the administration's banking bill, sight unseen."

The Trading With the Enemy Act had, however, been specifically designed by its originators to meet only *wartime* exigencies. By employing it to meet the demands of the depression, Roosevelt greatly extended the concept of "emergencies" to which expansion of executive powers might be applied. And in so doing, he established a pattern that was followed frequently: In time of crisis the President should utilize any statutory authority readily at hand, regardless of its original purposes, with the firm expectation of *ex post facto* congressional concurrence.

Beginning with F.D.R., then, extensive use of delegated powers exercised under an aura of crisis has become a dominant aspect of the presidency. Concomitant with this development has been a demeaning of the significance of "emergency." It became a term used to evoke public and congressional approbation, often bearing little actual relation to events. Roosevelt brain-truster, Rexford G. Tugwell, has described the manner in which Roosevelt used declarations of different degrees of emergency:

"The 'limited emergency' was a creature of Roosevelt's imagination, used to make it seem that he was doing less than he was. He did not want to create any more furor than was necessary. The qualifying adjective had no limiting force. It was purely for public effect. But the finding that an emergency existed opened a whole armory of powers to the Commander-in-Chief, far more than Wilson had had."

Roosevelt and his successor, Harry S. Truman, invoked formal states of emergency to justify extensive delegations of authority during actual times of war. The Korean war, however, by the fact of its never having been officially declared a "war" as such by Congress, further diluted the concept of what constituted circumstances sufficiently critical to warrant the delegation of extraordinary authority to the President.

At the end of the Korean war, moreover, the official state of emergency was not terminated. It is not yet terminated. This may be primarily attributed to the continuance of the Cold War atmosphere which, until recent years, made the imminent threat of hostilities an accepted fact of everyday life, with "emergency" the normal state of affairs. In this, what is for all practical purposes, permanent state of emergency, Presidents have exercised numerous powers—most notably under the Trading With the Enemy Act—legitimated by that ongoing state of national emergency. Hundreds of others have lain fallow, there to be exercised at any time, requiring only an order from the President.

Besides the 1933 and Korean war emergencies, two other states of declared national emergency remain in existence. On March 23, 1970, confronted by a strike of Postal Service employees, President Nixon declared a national emergency. The following year, on August 15, 1971, Nixon proclaimed another emergency, under which he imposed stringent import controls in order to meet an international monetary crisis. Because of its general language, however, that proclamation could serve as sufficient authority to use a substantial proportion of all the emergency statutes now on the books.

Over the course of at least the last 40 years, then, Presidents have had available an enormous—seemingly expanding and never-ending—range of emergency powers. Indeed, at their fullest extent and during the height of a crisis, these "prerogative" powers appear to be virtually unlimited, confirming Locke's perceptions. Because Congress and the public are unaware of the extent of emergency powers, there has never been any notable congressional or public objection made to this state of affairs. Nor have the courts imposed significant limitations.

During the New Deal, the Supreme Court initially struck down much of Roosevelt's emergency economic legislation (*Schechter* v. *United States*, 295 U.S. 495). However, political pressures, a change in personnel, and presidential threats of court-packing, soon altered this course of decisions (*NLRB* v. *Jones & Laughlin Steel Corp.*, 301 U.S. 1). Since 1937, the Court has been extremely reluctant to invalidate any congressional delegation of economic powers to the President. It appears that this will not change in the foreseeable future.

In a significant case directly confronting the issue of wartime emergency powers, *Youngstown Sheet & Tube Co.* v. *Sawyer* (343 U.S. 579), the Court refused to allow the President to rely upon *implied* constitutional powers during a crisis The action at issue involved presidential seizure of steel plants in a manner apparently directly at odds with congressional policy. Justice Black's plurality opinion specifically acknowledges that if Congress delegates powers to the President for use during an emergency, those powers are absolutely valid within constitutional restraints on Congress' *own* power to do so. Concurring opinions appear to agree on this point. It should be noted, therefore, that *all statutes* in this compilation are precisely these kinds of specific congressional delegations of power.

The 2,000-year-old problem of how a legislative body in a democratic republic may extend extraordinary powers for use by the executive during times of great crisis and dire emergency—but do so in ways assuring both that such necessary powers will be terminated immediately when the emergency has ended and that normal processes will be resumed—has not yet been resolved in this country. Too few are aware of the existence of emergency powers and their extent, and the problem has never been squarely faced.

B—SUMMARY VIEWS OF THE PRESENT STATUS OF EMERGENCY POWERS STATUTES

A review of the laws passed since the first state of national emergency was declared in 1933, reveals a consistent pattern of lawmaking. It is a pattern showing that the Congress, through its own actions, transferred awesome magnitudes of power to the executive ostensibly to meet the problems of governing effectively in times of great crisis. Since 1933, Congress has passed or recodified over 470 significant statutes delegating to the President powers that had been the prerogative and responsibility of the Congress since the beginning of the Republic. No charge can be sustained that the Executive branch has usurped powers belonging to the Legislative branch; on the contrary, the transfer of power has been in accord with due process of normal legislative procedures.

It is fortunate that at this time that, when the fears and tensions of the cold war are giving way to relative peace and détente is now national policy, Congress can assess the nature, quality, and effect of what has become known as emergency powers legislation. Emergency powers make up a relatively small but important body of statutes—some 470 significant provisions of law out of the total of tens of thousands that have been passed or recodified since 1933. But emergency powers laws are of such significance to civil liberties, to the operation of domestic and foreign commerce, and the general functioning of the U.S. Government, that, in microcosm, they reflect dominant trends in the political, economic, and judicial life in the United States.

A number of conclusions can be drawn from the Special Committee's study and analysis of emergency powers laws now in effect. Congress has in most important respects, except for the final action of floor debate and the formal passage of bills, permitted the Executive branch to draft and in large measure "make the laws." This has occurred despite the constitutional responsibility conferred on Congress by Article I Section 8 of the Constitution which states that it is Congress that "makes all Laws . . ."

Most of the statutes pertaining to emergency powers were passed in times of extreme crisis. Bills drafted in the Executive branch were sent to Congress by the President and, in the case of the most significant laws that are on the books, were approved with only the most perfunctory committee review and virtually no consideration of their effect on civil liberties or the delicate structure of the U.S. Government of divided powers. For example, the economic measures that were passed in 1933 pursuant to the proclamation of March 5, 1933, by President Roosevelt, asserting that a state of national emergency now existed, were enacted in the most turbulent circumstances. There was a total of only 8 hours of debate in both houses. There were no committee reports; indeed, only one copy of the bill was available on the floor.

This pattern of hasty and inadequate consideration was repeated during World War II when another group of laws with vitally significant and far reaching implications was passed. It was repeated during the Korean war and, again, in most recent mem-

ory, during the debate on the Tonkin Gulf Resolution passed on August 6, 1964.

On occasion, legislative history shows that during the limited debates that did take place, a few, but very few, objections were raised by Senators and Congressmen that expressed serious concerns about the lack of provision for congressional oversight. Their speeches raised great doubts about the wisdom of giving such open-ended authority to the President, with no practical procedural means to withdraw that authoritly once the time of emergency had passed.

For example, one of the very first provisions passed in 1933 was the Emergency Banking Act based upon Section 5(b) of the Trading With the Enemy Act of 1917. The provisions gave to President Roosevelt, with the full approval of the Congress, the authority to control major aspects of the economy, an authority which had formerly been reserved to the Congress. A portion of that provision, still in force, is quoted here to illustrate the kind of open-ended authority Congress has given to the President during the past 40 years:

"(b)(1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

"(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

"(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest.

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this subdivision.

"(2) Any payment, conveyance, transfer, assignment or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rules, regulation, instruction, or direction issued hereunder shall be to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder."

To cite two further examples:

In the context of the war powers issue and the long debate of the past decade over national commitments, 10 U.S.C. 712 is of importance:

"10 U.S.C. 712. Foreign governments: detail to assist.

"(a) Upon the application of the country concerned, the President, whenever he considers it in the public interest, may detail members of the Army, Navy, Air Forces, and Marine Corps to assist in military matters—

"(1) any republic in North America, Central America, or South America;

"(2) the Republic of Cuba, Haiti, or Santo Domingo and

"(3) during a war or a declared national emergency, any other country that he considers it advisable to assist in the interest of national defense.

"(b) Subject to the prior approval of the Secretary of the military department concerned, a member detailed under this section may accept any office from the country to which he is detailed. He is entitled to credit for all service while so detailed, as if serving with the armed forces of the United States. Arrangements may be made by the President, with countries to which such members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions."

The Defense Department, in answer to inquiries by the Special Committee concerning this provision, has stated that it has only been used with regard to Latin America, Liberia and Iran, and interprets its applicability as being limited to noncombatant advisers. However, the language of Section 712 is wide open to other interpretations. It could be construed as a way of extending considerable military assistance to any foreign country. Since Congress has delegated this power, arguments could be made against the need for further congressional concurrence in a time of national emergency.

The repeal of almost all of the Emergency Detention Act of 1950 was a constructive and necessary step, but the following provision remains:

"18 U.S.C. 1383. Restrictions in military areas and zones.

"Whoever, contrary to the restrictions applicable thereto, enters, remains in, leaves, or commits any act in any military area or military zone prescribed under the authority of an Executive order of the President, by the Secretary of the Army, or by any military commander designated by the Secretary of the Army, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be fined not more than $5,000 or imprisoned not more than one year, or both."

18 U.S.C. 1383 does not appear on its face to be an emergency power. It was used as the basis for internment of Japanese-Americans in World War II. Although it seems to be cast as a permanent power, the legislative history of the section shows that the statute was intended as a World War II emergency power only, and was not to apply in "normal" peacetime circumstances. Two years ago, the Emergency Detention Act was repealed, yet 18 U.S.C. 1383 has almost the same effect.

Another pertinent question among many, that the Special Committee's work has revealed, concerns the statutory authority for domestic surveillance by the FBI. According to some experts, the authority for domestic surveillance appears to be based upon an Executive Order issued by President Roosevelt during an emergency period. If it is correct that no firm statutory authority exists, then it is reasonable to suggest that the appropriate committees enact proper statutory authority for the FBI with adequate provision for oversight by Congress.

What these examples suggest and what the magnitude of emergency powers affirm is that most of these laws do not provide for congressional oversight or termination. There are two reasons which can be adduced as to why this is so. First, few, if any, foresaw that the temporary states of emergency declared in 1933, 1939, 1941, 1950, 1970, and 1971 would become what are now regarded collectively as virtually permanent states of emergency (the 1939 and 1941 emergencies were terminated in 1952). Forty years can, in no way, be defined as a temporary emergency. Second, the various administrations who drafted these laws for a variety of reasons were understandably not concerned about providing for congressional review, oversight, or termination of these delegated powers which gave the President enormous powers and flexibility to use those powers.

The intense anxiety and sense of crisis was contained in the rhetoric of Truman's 1950 proclamation:

"Whereas recent events in Korea and elsewhere constitute a grave threat to the peace of the world and imperil the efforts of this country and those of the United Nations to prevent aggression and armed conflict; and

"Whereas world conquest by communist imperialism is the goal of the forces of aggression that have been loosed upon the world; and

"Whereas, if the goal of communist imperialism were to be achieved, the people of this country would no longer enjoy the full and rich life they have with God's help built for themselves and their children; they would no longer enjoy the blessings of the freedom of worshipping as they severally choose, the freedom of reading and listening to what they choose, the right of free speech, including the right to criticize their Government, the right to choose those who conduct their Government, the right to engage freely in collective bargaining, the right to engage freely in their own business enterprises, and the many other freedoms and rights which are a part of our way of life; and

"Whereas, the increasing menace of the forces of communist aggression requires that the national defense of the United States be strengthened as speedily as possible:

"Now, therefore, I, Harry S. Truman, President of the United States of America, do proclaim the existence of a national emergency, which requires that the military, naval, air, and civilian defenses of this country be strengthened as speedily as possible to the end that we may be able to repel any and all threats against our national security and to fulfill our responsibilities in the efforts being made through the United Nations and otherwise to bring about lasting peace.

"I summon all citizens to make a united effort for the security and well-being of our beloved country and to place its needs foremost in thought and action that the full moral and material strength of the Nation may be readied for the dangers which threaten us.

"I summon our farmers, our workers in industry, and our businessmen to make a mighty production effort to meet the defense requirements of the Nation and to this end to eliminate all waste and inefficiency and to

subordinate all lesser interests to the common good.

"I summon every person and every community to make, with a spirit of neighborliness, whatever sacrifices are necessary for the welfare of the Nation.

"I summon all State and local leaders and officials to cooperate fully with the military and civilian defense agencies of the United States in the national defense program.

"I summon all citizens to be loyal to the principles upon which our Nation is founded, to keep faith with our friends and allies, and to be firm in our devotion to the peaceful purposes for which the United Nations was founded.

"I am confident that we will meet the dangers that confront us with courage and determination, strong in the faith that we can thereby "secure the Blessings of Liberty to ourselves and our Posterity."

"In witness whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

"Done at the City of Washington this 16th day of December (10:20 a.m.) in the year of our Lord nineteen hundred and fifty, and of the Independence of the United States of America the one hundred and seventy-fifth.

"HARRY S. TRUMAN.

"[Seal]

"By the President:

"DEAN ACHESON,
"Secretary of State."

The heightened sense of crisis of the cold war so evident in Truman's proclamation has fortunately eased. The legislative shortcomings contained in this body of laws can be corrected on the basis of rational study and inquiry.

In the view of the Special Committee, an emergency does not now exist. Congress, therefore, should act in the near future to terminate officially the states of national emergency now in effect.

At the same time, the Special Committee is of the view that it is essential to provide the means for the Executive to act effectively in an emergency. It is reasonable to have a body of laws in readiness to delegate to the President extraordinary powers to use in times of real national emergency. The portion of the concurring opinion given by Justice Jackson in the *Youngstown Steel* case with regard to emergency powers provides sound and pertinent guidelines for the maintenance of such a body of emergency laws kept in readiness to be used in times of extreme crisis. Justice Jackson, supporting the majority opinion that the "President's power must stem either from an act of Congress or from the Constitution itself" wrote:

"The appeal, however, that we declare the existence of inherent powers *ex necessitate* to meet an emergency asks us to do what many think would be wise, although it is something the forefathers omitted. They knew what emergencies were, knew the pressures they engender for authoritative action, knew, too, how they afford a ready pretext for usurpation. We may also suspect that they suspected that emergency powers would tend to kindle emergencies. Aside from suspension of the privilege of the writ of habeas corpus in time of rebellion or invasion, when the public safety may require it, they made no express provision for exercise of extraordinary authority because of a crisis. I do not think we rightfully may so amend their work, and, if we could, I am not convinced it would be wise to do so, although many modern nations have forthrightly recognized that war and economic crises may upset the normal balance between liberty and authority. Their experience with emergency powers may not be irrelevant to the argument here that we should say that the Executive, of his own volition, can invest himself with undefined emergency powers.

"Germany, after the First World War, framed the Weimar Constitution, designed to secure her liberties in the Western tradition. However, the President of the Republic, without concurrence of the Reichstag, was empowered temporarily to suspend any or all individual rights if public safety and order were seriously disturbed or endangered. This proved a temptation to every government, whatever its shade of opinion, and in 13 years suspension of rights was invoked on more than 250 occasions. Finally, Hitler persuaded President Von Hindenburg to suspend all such rights, and they were never restored.

"The French Republic provided for a very different kind of emergency government known as the "state of seige." It differed from the German emergency dictatorship particularly in that emergency powers could not be assumed at will by the Executive but could only be granted as a parliamentary measure. And it did not, as in Germany, result in a suspension or abrogation of law but was a legal institution governed by special legal rules and terminable by parliamentary authority.

"Great Britain also has fought both World Wars under a sort of temporary dictatorship created by legislation. As Parliament is not bound by written constitutional limitations, it established a crisis government simply by delegation to its Ministers of a larger measure than usual of its own unlimited power, which is exercised under its supervision by Ministers whom it may dismiss. This has been called the "high-water mark in the voluntary surrender of liberty," but, as Churchill put it, "Parliament stands custodian of these surrendered liberties, and its most sacred duty will be to restore them in their fullness when victory has crowned our exertions and our perseverance." Thus, parliamentary controls made emergency powers compatible with freedom.

"This contemporary foreign experience may be inconclusive as to the wisdom of lodging emergency powers somewere in a modern government. But it suggests that emergency powers are consistent with free government only when their control is lodged elsewhere than in the Executive who exercises them. That is the safeguard that would be nullified by our adoption of the "inherent powers" formula. Nothing in my experience convinces me that such risks are warranted by any real necessity, although such powers would, of course, be an executive convenience.

"In the practical working of our Government we already have evolved a technique within the framework of the Constitution by which normal executive powers may be considerably expanded to meet an emergency. Congress may and has granted extraordinary authorities which lie dormant in normal times but may be called into play by the Executive in war or upon proclamation of a national emergency. In 1939, upon congressional request, the Attorney General listed ninety-nine such separate statutory grants by Congress of emergency or wartime executive powers. They were invoked from time to time as need appeared. Under this procedure we retain Government by law—special, temporary law, perhaps, but law nonetheless. The public may know the extent and limitations of the powers that can be asserted, and persons affected may be informed from the statute of their rights and duties.

"In view of the ease, expedition and safety with which Congress can grant and has granted large emergency powers, certainly ample to embrace this crisis, I am quite unimpressed with the argument that we should affirm possession of them without statute. Such power either has no beginning or it has no end. If it exists, it need submit to no legal restraint. I am not alarmed that it would plunge us straightway into dictatorship, but it is at least a step in that wrong direction.

"But I have no illusion that any decision by this Court can keep power in the hands of Congress if it is not wise and timely in meeting its problems. A crisis that challenges the President equally, or perhaps primarily, challenges Congress. If not good law, there was worldly wisdom in the maxim attributed to Napoleon that "The tools belong to the man who can use them." We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers.

"The essence of our free Government is "leave to live by no man's leave, underneath the law"—to be governed by those impersonal forces which we call law. Our Government is fashioned to fulfill this concept so far as humanly possible. The Executive, except for recommendation and veto, has no legislative power. The executive action we have here originates in the individual will of the President and represents an exercise of authority without law. No one, perhaps not even the President, knows the limits of the power he may seek to exert in this instance and the parties affected cannot learn the limit of their rights. We do not know today what powers over labor or property would be claimed to flow from Government possession if we should legalize it, what rights to compensation would be claimed or recognized, or on what contingency it would end. With all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations.

"Such institutions may be destined to pass away. But it is the duty of the Court to be last, not first, to give them up."

With these guidelines and against the background of experience of the last 40 years, the task that remains for the Special Committee is to determine—in close cooperation with all the Standing Committees of the Senate and all Departments, Commissions, and Agencies of the Executive branch—which of the laws now in force might be of use in a future emergency. Most important, a legislative formula needs to be devised which will provide a regular and consistent procedure by which any emergency provisions are called into force. It will also be necessary to establish a means by which Congress can exercise effective emergency power as well as providing a regular and consistent procedure for the termination of such grants of authority.

SACRIFICE

Mr. MONTOYA. Mr. President, the philosophy behind S. 2589 is a philosophy of sacrifice, and the sooner all our people realize that, the better it will be.

This bill means that all of us, and I want to emphasize all, shall have to begin immediately using less electricity, driving fewer miles and wearing warmer clothes. It means that we are going to have to give up the luxury of going to a supermarket at any hour of the night or day in favor of going during the day. It means that we should drive more slowly when we drive and that we should consider measures, such as those proposed by the New Mexico State Board of Education, to lengthen Christmas vacations and extend the school year. This bill, in short, says to the American people that there are going to have to be changes made in everyone's way of life. We are not going to get by this crisis if everyone continues to use energy as he has in the past. That must be understood, and that is what this bill says.

With each passing day, the specter of the energy shortage grows larger and

larger. At the end of the summer it was estimated that our fuel shortfall for the year would range between 100,000 and 250,000 barrels per day. On October 12, the estimate of our fuel shortfall was 1.2 million barrels per day. On October 30 it was 2 to 2.5 million barrels per day. Now there are estimates of shortages of 6 million barrels per day. It seems that the earlier estimates were too small because they failed to take into consideration the increase in demand which has taken place along with the decrease in supply. So the crisis is very real and no one need believe any longer that it is just a hoax perpetrated by the oil companies in an effort to raise prices.

The bill before us represents one side of a two-sided approach to the energy crisis. This bill is concerned with the demand side. It is an attempt to restrain demand. Several Senators have pointed out that this bill is not the whole solution. They say that more needs to be done to increase supply, and that is correct. But we do not need to fool ourselves. There is not going to be any quick increase in supply. The most recent "Weekly Energy Report" points out that the best that can be hoped for in terms of increased supply is an increase of 500,000 barrels a day from the oil fields in my part of the country—New Mexico, Oklahoma, Texas, Louisiana. One can add to that 160,000 barrels per day from the Elk Hill Naval Reserve, but that is only 660,000 barrels total. That is only 10 to 20 percent of our shortages, depending on whose estimates you believe as to the size of the shortage. So this bill, in requiring—and it does require—a careful husbanding of our fuel, is a good bill and a needed bill.

With regard to the other side of the problem, increasing the supply of energy, the Congress, and especially the Senate Interior Committee, has been doing an admirable job. The Interior Committee has under consideration S. 1283, a bill establishing a $20 billion program for research, development, and demonstration of fuels and energy technology. I hope we can pass this bill before the Thanksgiving recess, because we need that kind of a program.

The administration has proposed a special energy program, too, but it is inadequate. The administration is asking for $10 billion, it says. But of the $10 billion, $7.5 billion is old money. Only $2.5 billion is new money, and that $2.5 billion, spread out over the 5-year life of the administration program, is only $500 million a year. That is no crash program. That is no project independence; that is project blackout and project mislead.

Mr. President, I have come to believe that the administration does not have the vaguest idea of what it wants. OMB is still trying to decide how to spend $115 million which the President committed to energy research last summer. Months go by, lights dim, homes grow cold, and still OMB cannot allocate $115 million. How are they going to spend $10 billion? I worry about that, and I worry about how they will spend the $20 billion we are going to give them. I hope they can do it, but I am beginning to lose faith in this administration's commitment to energy research and in its ability to carry it out.

In saying that, I want to say it is OMB where I have my problem. Dixy Lee Ray has done an outstanding job at the AEC. She has worked hard and has beaten deadlines by months. So she is to be commended.

A final point I want to make concerns those provisions in this bill making this delegation of powers to the President a temporary delegation and requiring a report to the Congress after 6 months. I do not think we are giving away any of our power by this bill. It is obvious that the Congress cannot administer a rationing program. It cannot police a program of conservation. That is appropriately a function of the Executive. The Congress is asserting itself by directing that this program of rationing and conservation go into effect. So one may say that this is Congress program. In requiring a 6 months' report and the opportunity to kill or extend the legislation at the end of the year, we are going to keep control over this program. I think we should serve notice right now that we are going to monitor this program—our constituents will see to that—and we will require modifications where they are needed. We have learned something from the time the Gulf of Tonkin Resolution was passed to the time we overrode the veto of the War Powers Act. We learned that we should not give away our powers in vague fashion and that we should monitor the delegations of power which we do make.

Mr. President, that is all I have to say. I wanted to point out to the people that the crisis that is on us is severe, and that it will require sacrifice and no one should entertain the slightest doubt otherwise. I also wanted to say that on this problem, Congress has done its work well. We are going to be able to pass this bill today because the Interior Committee has been studying the issue for several years and was ready to meet the crisis when it came. It is too bad the same thing cannot be said of the administration.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. TUNNEY). The bill having been read the third time, the question is, Shall it pass?

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

The assistant legislative clerk called the roll.

Mr. FULBRIGHT (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Idaho (Mr. CHURCH). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Kentucky (Mr. HUDDLESTON) is absent on official business.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Mississippi (Mr. STENNIS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. McCLURE) is absent on official business.

The Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 78, nays 6, as follows:

[No. 509 Leg.]

YEAS—78

Abourezk	Griffin	Nunn
Aiken	Gurney	Packwood
Bayh	Hansen	Pastore
Beall	Hart	Pearson
Bennett	Hartke	Pell
Bentsen	Haskell	Proxmire
Bible	Hathaway	Randolph
Biden	Hollings	Ribicoff
Brooke	Hruska	Roth
Burdick	Hughes	Saxbe
Byrd, Harry F., Jr.	Humphrey	Schweiker
	Inouye	Scott, Hugh
Byrd, Robert C.	Jackson	Scott, William L.
Cannon	Javits	
Case	Johnston	Stafford
Chiles	Long	Stevens
Clark	Magnuson	Stevenson
Cook	Mansfield	Symington
Cranston	Mathias	Taft
Dole	McClellan	Talmadge
Domenici	McGee	Thurmond
Dominick	McGovern	Tower
Eagleton	McIntyre	Tunney
Eastland	Metcalf	Weicker
Ervin	Montoya	Williams
Fannin	Moss	Young
Gravel	Muskie	

NAYS—6

Bartlett	Buckley	Hatfield
Bellmon	Goldwater	Helms

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Fulbright, against.

NOT VOTING—15

Allen	Curtis	Mondale
Baker	Fong	Nelson
Brock	Huddleston	Percy
Church	Kennedy	Sparkman
Cotton	McClure	Stennis

So the bill (S. 2589) was passed, as follows:

S. 2589

An act to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; 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 "National Energy Emergency Act of 1973".

TITLE I—STATEMENT OF FINDINGS AND PURPOSES

SEC. 101. FINDINGS.—The Congress hereby determines that—

(a) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(b) such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods;

(c) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute a nationwide energy emergency which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(d) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(e) interruptions of energy supplies, both in the near term and in the future, will require emergency measures to reduce energy consumption, increase domestic production of energy resources, and provide for equitable distribution of available supplies to all Americans;

(f) the development of a comprehensive energy policy to serve all of the people of the United States necessitates the regulation of intrastate delivery and use of energy resources, other than natural gas, in order to insure the effective regulation of interstate and foreign commerce in energy;

(g) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing emergency fuel shortage contingency plans lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act.

(h) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency.

SEC. 102. PURPOSES.—The purpose of this Act is to—

(a) declare by Act of Congress an energy emergency;

(b) grant to the President of the United States, and direct him to exercise, specific temporary authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products, and other fuels, or dislocations in their national distribution system;

(c) provide a national program to conserve scarce energy resources, through mandatory and voluntary rationing and conservation measures, implemented by Federal, State, and local governments;

(d) protect the public health, safety, and welfare and the national security, and to assure the continuation of vital public services and maximum employment in the face of critical energy shortages;

(e) minimize the adverse effects of such shortages or dislocations on the economy and industrial capacity of the Nation;

(f) insure that measures taken to meet existing emergencies are consistent, as nearly as possible, with existing national commitments to protect and improve the environment in which we live; and

(g) direct the President and State and local governments to develop contingency plans which shall have the practical capability for reducing energy consumption by no less than 10 per centum within ten days and by no less than 25 per centum within four weeks of any interruption of normal supply.

(h) insure against anticompetitive practices and effects and preserve, enhance, and facilitate competition in the development, production, transportation, distribution, and marketing of energy resources.

TITLE II—EMERGENCY FUEL SHORTAGE CONTINGENCY PROGRAMS

SEC. 201. DECLARATION OF EMERGENCY.—The Congress hereby declares that current and imminent fuel shortages have created a nationwide energy emergency.

SEC. 202. PRESIDENTIAL AUTHORIZATION.—(a) The President is hereby authorized and directed to implement emergency fuel shortage contingency programs as provided for in this title.

(b) For the duration of the energy emergency, the President is further authorized to enter into appropriate understandings, arrangements, or agreements with foreign states, or foreign nationals, or international organizations, to adjust and allocate imports of fossil fuels, or take such other action as he deems necessary, with respect to trade in fossil fuels, in order to achieve the purposes of this Act. Any such formal agreement shall be submitted to the Senate of the United States, and shall be operative, but shall not become final until the Senate has had fifteen days, no less than seven of which shall be legislative days, to disapprove of such agreement.

(c) It is the sense of the Congress that since the present energy crisis is very much an international problem which calls for an international as well as domestic response, therefor the United States should endeavor to conclude an appropriate agreement with the other member nations of the Organization for Economic Cooperation and Development, or so many as may be agreed upon in such agreement, relative to the supplies of energy available to the industrialized nations of the free world and with special reference to joint or cooperative research and development for alternative sources of energy.

(d) The declared nationwide energy emergency and the authority granted by this Act shall terminate one year after the date of enactment of this Act. Six months after the date of enactment of this Act, the President shall submit to the Congress an interim report on the implementation of the Act, together with such recommendations for amending or extending the Act as he deems appropriate. If, at any time following receipt and consideration of the aforementioned interim report, the Congress agrees to a concurrent resolution terminating the action taken pursuant to the declared nationwide energy emergency, all authority granted by this Act shall expire thirty days after the passage of such concurrent resolution.

SEC. 203. EMERGENCY SHORTAGE CONTINGENCY PLANS.—(a) Not later than fifteen days after the date of enactment of this Act, the President shall promulgate a plan for a nationwide emergency energy rationing and conservation program. Such program shall assure, insofar as is practicable, that all vital services will be maintained and that unnecessary energy consumption will be curtailed.

(b) The rationing and conservation program provided for in subsection (a) shall include the following:

(1) an established priority system and plan, including a program to be implemented without delay, for rationing of scarce fuels quantitatively and qualitatively among distributors and consumers for the duration of the emergency. To the extent practicable such priority and rationing program shall include, but not be limited to, measures adequate to insure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impacts on public health; and

(2) measures capable of reducing energy consumption in the affected area by no less than 10 per centum within ten days, and by no less than 25 per centum within four weeks after implementation. Such measures shall include, but are not limited to: transportation control plans; restrictions against the use of fuel or energy for nonessential uses such as lighted advertising and recreational activities; a ban on all advertising encouraging increased energy consumption; limitations on energy consumption of commercial establishments and public service, such as schools; temperature restrictions in office and public buildings, including wholesale and retail business establishments; and reductions in speed limits:

Provided, That fuels not subject to regulation or allocation under this Act shall not be considered in determining the fuel needs or supplies or geographic areas or States of the United States.

(c) Not later than fifteen days after the date of enactment of this Act, the President shall take such action as may be necessary to determine the fuel needs among the major geographic regions of the United States and shall promulgate a plan which will assure an equitable distribution of available fuel supplies among such major geographic regions of the United States based upon their respective relative needs, including the respective relative needs of each of the several States within any such region. Such plan shall include such allocation of available transport facilities as may be necessary to assure the equitable distribution which is required under such plan. Plans prepared pursuant to this subsection shall be implemented within thirty days of their promulgation.

(d) Within two weeks of the date of enactment of this Act, the President shall also promulgate requirements for emergency energy conservation and contingency programs to be developed by each State and major metropolitan government, to implement the Federal program described in subsection (a) above. Such programs, which must be developed within eight weeks after the date of enactment of this Act and submitted for approval to the President, shall include at a minimum the provisions set forth in subsection (b) above. The President shall approve and direct the States to implement those State plans or portions thereof which he determines meet the requirements of this section for emergency energy conservation and contingency programs and which are necessary to deal with the energy shortage conditions facing the Nation. In developing the Federal program and requirements for State programs the President shall insure that the provisions for specific energy conservation and contingency measures are sufficiently flexible so that the denied reductions in energy consumption may be achieved with the minimum adverse impacts on local, State and regional economies and employment levels.

(e) In the event that a State or major metropolitan government fails to design and implement a contingency program as provided for in subsection (d), the Federal program implemented pursuant to subsection (a) above, shall remain in effect for such State or metropolitan government.

(f) The President shall direct immediate implementation of those rationing and conservation measures contained in the plans in this section as needed to achieve the purposes of this Act.

(g) In exercising the authority provided for in this Act, the Emergency Petroleum Allocation Act of 1973, the Economic Stabi-

lization Act of 1970, as amended, and the Defense Production Act of 1950, as amended, the President shall strive to insure that all regions and all States of the Nation share available fuels in an equitable manner. The President shall give special consideration to those States and those regions of the country which are depressed economically, experiencing high unemployment, or which lack ready access to energy transportation facilities adequate to meet their essential requirements.

(h) Nothing contained in this Act shall authorize the President to regulate or allocate natural gas not otherwise subject to the jurisdiction of the Federal Power Commission, except for the purpose of prohibiting the burning of gas for decorative purposes and except as provided in section 204(a) of this Act: *Provided, however,* That State regulatory bodies having jurisdiction over such natural gas shall cooperate with the President to achieve the conservation objectives of this Act.

SEC. 204. FEDERAL ACTION FOR FUEL CONSERVATION.—Notwithstanding any action taken on the part of State or local governments pursuant to the rationing and conservation programs required by section 203:

(a) the President may, in accordance with the rationing and conservation program required by section 203, require, after balancing on a plant-by-plant basis the environmental effects of such conversion against the need to fulfill the purposes of this Act, that any major fossil fuel burning installations, including existing electric generating plants, which now burn petroleum or natural gas and which have the ready capability and necessary plant equipment to burn coal or other fuels, to convert to burning coal or other fuels as their primary energy source. Any installation so converted may be permitted to continue to use such fuel for more than one year, subject to the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.). Insofar as practicable, conversions shall first be required for those plants where the use of coal or other fuels will have the least adverse environmental impact. Such conversions shall be carried out contingent upon the availability of coal, and the maintenance of reliability of service in a given service area. The President shall require that fossil fuel fired electrical powerplants now in the planning process be designed and constructed so as to have the capability of rapid conversion to burn coal. In areas where at that time the utilization of coal can reasonably be anticipated, the President may require that fossil fuel fired baseload electrical powerplants now in the planning process, other than combustion turbine and combined cycle units, be designed and constructed so as to be capable of rapid conversion to burn coal.

(b)(1) the Interstate Commerce Commission, with respect to carriers subject to regulation under sections 1(1) and 304(a)(1) of title 49, United States Code (49 U.S.C. 1(1), 304(1)(a)), the Civil Aeronautics Board, and the Federal Maritime Commission, with respect to carriers operating in the domestic trades of the United States including its territories and possessions, for the duration of the energy emergency, in addition to their existing powers, shall have the authority on their own motion or by motion of any interested party, to review and make reasonable and necessary adjustments to the operating authority of carriers within their respective jurisdictions in order to conserve fuel while providing for the public convenience and necessity. Such adjustments may include but need not be limited to adjusting and rationalizing the operations of such carriers with regard to frequency of service, points served, scheduling to prevent duplication of service and reviewing or adjusting rate schedules to reflect such adjustment and rationalization. Actions taken pursuant to this paragraph may be taken, notwithstanding any other provision of law, after hearings in accordance with section 553 of title 5 of the United States Code. Any person adversely affected by an action shall be entitled to a judicial review of such action in accordance with chapter 7 of title 5 of the United States Code.

(2) within fifteen days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the energy emergency while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to conserve fuel while providing for the public convenience and necessity.

(3) the regulatory agencies subject to this subsection (b) may, where appropriate, consult with departments or agencies of the Federal Government having expertise or jurisdiction over the modes of transportation involved.

(c) the President shall develop and implement federally sponsored incentives for the use of public transportation, including priority rationing of fuel for mass transit systems, and Federal subsidies for reduced fares and additional expenses incurred because of increased service, for the duration of the energy emergency. For the purposes of this section, paragraph (3) of subsection (e) of section 142 of title 23, United States Code, is amended as follows: strike the period at the end of the paragraph and add the following: "except that, with respect to the purchase of buses and rolling stock for fixed rail, the Federal share shall be 80 per centum."

(d) the President shall solicit recommendations from the Secretary of the Department of Transportation as to changes in Federal and State policies relating to motorized transport on the interstate highway system which would result in significant savings of fuel.

(e) all Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President, within thirty days of enactment of this Act, specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(f) the President shall organize and cooperate with the advertising industry and advertisers in developing a national energy conservation advertising program and in promoting educational programs to foster public acceptance of energy conservation needs and opportunities.

SEC. 205. AIR QUALITY REQUIREMENTS.—Should a Presidential order to change fuels pursuant to subsection 204(a) result in a violation of an air quality implementation plan, a suspension may be granted in accordance with the provisions of the Clean Air Act, as amended.

SEC. 206. ENVIRONMENTAL IMPACT STATEMENTS.—No major action taken under this Act shall, for a period of one year after initiation of such action, be deemed a major Federal action significantly affecting the quality of human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, prior to taking any such major action that has a significant impact on the environment, if practicable, or in any event within sixty days of taking such action, an environmental evaluation, with analysis equivalent to that required under section 102 (2)(C) of the National Environmental Policy Act of 1969, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for thirty-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Enviornmental Policy Act of 1969 by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one-year period, or any action to extend an action taken under this Act to a total period of more than one year shall be subject to the full provisions of the National Environmental Policy Act of 1969 notwithstanding any other provision of this Act.

SEC. 207. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.—The President is authorized to initiate the following measures to supplement domestic energy supplies for the duration of the emergency:

(a) Require on a mandatory basis the production of designated existing domestic oilfields at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields.

(b) Require, if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands, under their respective jurisdiction shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery.

(c) Require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the priorities established in accordance with section 203.

(d) Order the acceleration of lease sales of energy resources on public lands, subject to existing law, to include, but not limited to, oil and gas leasing onshore and offshore and geothermal energy leasing: Provided, That the exemptions provided for in section 206 shall not be applicable to this subsection 207(d).

(e) Pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2)(A) of such Act), to limit the export of gasoline, number 2 fuel oil, resi-

dual fuel oil, or any other petroleum product to achieve the purposes of this Act.

SEC. 208. ADVERSE IMPACT ON EMPLOYMENT.—In carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

SEC. 209. AMENDMENT OF INTERNAL REVENUE CODE TO ALLOW DEDUCTIONS FOR ENERGY-CONSERVING ALTERATIONS OF TAXPAYERS RESIDENCES.—(a) Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 219 as 220, and by inserting after section 218 the following new section:

"SEC. 219. Energy-conserving improvements of taxpayer's residence.

"(a) IN GENERAL.—A taxpayer may elect to treat energy-conserving residential improvement expenses paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction for that taxable year. An election under this subsection shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulation.

"(b) LIMITATION.—The deduction allowed a taxpayer under this section for any taxable year shall not exceed $1,000.

"(c) DEFINITION.—For purposes of this section, the term 'energy-conserving residential improvement expense' means any ordinary or necessary expense paid or incurred during the taxable year for repairs or improvements, designed to reduce heat loss in winter and heat gain in summer, to property used by the taxpayer as his principal residence, and includes, without being limited to, the installation of insulation, storm windows, caulking, humidifiers, other efforts designed for energy conservation, and any device or system designed to utilize solar energy to provide heating or cooling which meets performance criteria established by the National Bureau of Standards."

(b) The table of sections for such part VII is amended by striking out

"Sec. 219. Cross reference."

and inserting in lieu thereof

"Sec. 219. Repair or improvement of taxpayer's residence.

"Sec. 220. Cross references."

(c) Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (9) the following paragraph:

"(10) ENERGY-CONSERVING IMPROVEMENTS OF TAXPAYER'S RESIDENCE.—The deduction allowed by section 219."

(d) The amendments made by this section shall apply with respect to taxable years ending after the date of the enactment of this Act, and shall expire upon the termination of this Act.

SEC. 210. DEVELOPMENT OF ADDITIONAL ELECTRIC POWER RESOURCES.—Not later than ninety days after the date of enactment of this Act, the President shall promulgate a plan for the development of the hydroelectric power resources of the Nation. Such program shall provide for the expeditious completion of projects already authorized by Congress and for the planning of other projects designed to utilize available hydroelectric power resources, including tidal power.

SEC. 211. COMPREHENSIVE REVIEW OF EXPORT POLICIES.—The Secretary of the Interior and the Secretary of Commerce are hereby directed to prepare a comprehensive review of export policies for petroleum and other energy sources to determine the consistency or lack thereof of the Nation's energy trade policy with domestic fuel conservation efforts. Such report shall be submitted to Congress within thirty days after the enactment of this Act.

TITLE III—ADMINISTRATION AND AUTHORIZATIONS

SEC. 301. CONGRESSIONAL APPROVAL.—Within two weeks after the date of enactment of this Act, the President shall submit to Congress his proposals for the emergency contingency programs provided for in title II of this Act, and proposals for implementing such programs. The Congress may, within fifteen days of such submission, five of which must have been in legislative session, by concurrent resolution specifically disapprove of all or part of the program or proposal.

SEC. 302. (a) LOCAL ADMINISTRATION.—The President may, in the implementation of any nationwide energy emergency rationing and conservation program, utilize a system of State and local offices as provided in this section.

(b) STATE AGENCIES.—The President is authorized to permit appropriate State agencies to operate the program within each State through local boards or other local agencies, including appeal agencies, as may be necessary to insure that the nationwide program is implemented within each State in a manner responsive to the immediate needs of the locality and, consistent with the nationwide energy emergency rationing and conservation program. The State agencies are authorized and may be directed to consult with the elected officials of each locality when appointing the officials of such local agencies.

(c) ADDITIONAL FUNCTIONS.—The legislature of any State may in the development of any program of energy rationing or conservation, authorize the State agency to perform additional functions under State law: *Provided*, That the President may, by regulation, require such additional functions to be approved prior to their being implemented by the State agency.

SEC. 303. ECONOMIC INCENTIVES.—The Secretary of the Treasury and the Director of the Cost of Living Council are hereby authorized and directed to study and recommend to the Congress specific incentives to increase energy supply, reduce demand, and to encourage private industry and individual persons to subscribe to the goals of this Act and to comply with the requirements of programs developed and implemented pursuant to this Act. The study and recommendations required by this section shall include an analysis of the actions required to implement the principle that the producers and users of energy should pay the full long-run incremental cost of obtaining incremental supplies of energy and an analysis of the effects of such actions, if implemented, upon increasing energy supplies.

SEC. 304. STATE LAWS.—No State law or program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any program issued pursuant thereto except insofar as such State law or program is inconsistent with the provisions of this Act.

SEC. 305. FEDERAL FACILITIES.—Whenever practicable, and for purposes of facilitating the transportation and storage of fuel during the effective period of this Act, agencies or departments of the Federal Government are authorized to enter into arrangements for use by domestic public entities and private industries of equipment or facilities which are in idle status or otherwise excess to the short-term needs of such agency: *Provided, however*, That such arrangements shall be made at fair-market prices and only after a finding by the agency of nonavailability of suitable equipment or facilities within private industry in the region of need.

SEC. 306. INJUNCTIVE RELIEF.—The United States district courts for the districts in which a violation of this Act or regulations or orders issued pursuant thereto occur, or are about to occur, shall have jurisdiction to issue a temporary restraining order, preliminary or permanent injunction to prevent such violation. Such injunction may be issued upon application of the Attorney General in compliance with the Federal Rules of Civil Procedure.

SEC. 307. SANCTIONS.—Any person who—

(a) Willfully violates any order or regulations issued pursuant to this Act shall be fined not more than $5,000 for each violation.

(b) Violates any order or regulation issued pursuant to this Act shall be subject to a civil penalty of not more than $2,500 for each day he is in violation of this Act, for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having previously been subjected to a civil penalty for a prior violation of any order or regulation issued pursuant to this Act shall be fined not more than $50,000 or imprisoned not more than six months, or both.

SEC. 308. LOANS TO HOMEOWNERS AND SMALL BUSINESSES.—(a) The Federal Housing Administration and the Small Business Administration are authorized to make low interest loans to homeowners and small businesses for the purpose of installing new and improved insulation, storm windows, and more efficient heating units.

(b) It is the sense of the Congress that small business enterprises should cooperate to the maximum extent possible in achieving the purposes of this Act and that they should have their varied needs considered by all levels of government in the implementation of the programs provided for by title II.

(c) In order to carry out the policy stated in subsection (b)—

(1) the Small Business Administration (A) shall to the maximum extent possible provide small business enterprises with full information concerning the provisions of the programs provided for in title II which particularly affect such enterprises, and the activities of the various departments and agencies under such provisions, and (B) shall, as a part of its annual report, provide to the Congress a summary of the actions taken under programs provided for in title II which have particularly affected such enterprises;

(2) to the extent feasible, Federal and other governmental bodies shall seek the views of small business in connection with adopting rules and regulations under the programs provided for in title II and in administering such programs; and

(3) in administering the programs provided for in title II, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises.

(d) Any controls instituted shall be insofar as practicable, equitably applied to all businesses, whether large or small; and due consideration shall be given to the unique problems of retailing establishments and small business so as not to discriminate or cause unnecessary hardship in the administration or implementation of the provisions of this Act.

SEC. 309. OFFICE OF EMERGENCY FUEL ALLOCATION.—The President shall establish a special office to receive complaints and emergency requests from officers of State and local governmental units who cannot obtain adequate supplies of gasoline or fuel oil. The office shall be authorized to act upon requests from appropriate State and local officers in situations where communities are threatened with the disruption of public services such as health, education, police,

fire, and sanitation. The office shall be empowered to order that priority be given to provide that adequate gasoline and fuel oil supplies be immediately made available to these communities upon its determination that such supplies are needed.

SEC. 310. NATIONAL ENERGY EMERGENCY ADVISORY COMMITTEE.—(a) There is hereby created a National Energy Emergency Advisory Committee which shall advise the President with respect to all aspects of implementation of this Act. The chairman of the committee shall be the Director of the Office of Energy Policy. In addition to the chairman, the committee shall consist of twenty members appointed by the President, who shall represent the following interests: energy industry, including but not limited to independent producers, refiners, transporters, and wholesale and retail marketers; transportation; industrial energy users; small business; labor; agriculture; environmental; State and local government; and consumers.

(b) The head of each of the following agencies shall designate a representative who shall serve as an observer at each meeting of the advisory committee and shall assist the committee to perform its advisory functions;

(1) the executive departments as defined in section 101 of title 5, United States Code;

(2) Interstate Commerce Commission;

(3) Atomic Energy Commission;

(4) Federal Power Commission;

(5) Federal Trade Commission;

(6) Civil Aeronautics Board; and the

(7) Federal Maritime Commission.

SEC. 311. ADMINISTRATIVE PROCEDURE IN ORDER TO INSURE ACCOUNTABILITY AND DUE PROCESS.—(a) The functions exercised under this Act are excluded from the operation of subchapter 2 of chapter 5, and chapter 7 of title V, United States Code, except as to the requirements of section 552, 555 (c) and (e), and 702 and except as to the requirements of section 553 as modified by subsection (b) of this section.

(b) All rules, regulations, or orders promulgated pursuant to this Act shall be subject to the provisions of section 553 of title V of the United States Code except that all rules, regulations, or orders promulgated must provide for the following—

(1) Notice and opportunity to comment which shall be achieved by publication of all proposed general rules, regulations, or orders issued pursuant to this Act in the Federal Register. In each case, a minimum of five days following such publication shall be provided for opportunity to comment.

(2) Public notice of all rules, regulations, or orders promulgated by a State pursuant to section 203 of this Act shall be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) Any agency authorized by the President or by this Act to issue rules, regulations, or orders under sections 203, 204, 205, 206, 207, and 315 of this Act shall hold public hearings on those rules, regulations, or orders which the agency determines in its discretion are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than sixty days after the implementation of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

Any agency authorized by the President or by this Act to issue rules, regulations, or orders may not waive any of the requirements set forth in this subsection except that the requirements set forth in subsection (b)(1) as to time of notice and opportunity to comment may be waived where strict compliance is found to cause grievous injury to the operation of the program and such findings are set out in detail in the rules, regulations, or orders.

(c)(1) In addition to the requirements of section 552 of title V of the United States Code, any agency authorized by the President or by this Act to issue rules, regulations, or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule, regulation, or order with such modifications as the necessary to insure confidentiality protected under the Freedom of Information Act. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules, regulations, or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under the Freedom of Information Act.

(2) Any agency authorized by the President to issue rules, regulations, or orders under this Act shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or recision of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

(d) All proposals which the President submits for the approval of the Congress pursuant to section 301 of this Act and subsequent amendments and modifications thereto for the emergency fuel shortage contingency programs provided for in title II of this Act and for implementing such programs shall include the following:

(1) findings of fact and a specific statement explaining the rationale for each provision contained in such proposals,

(2) proposed procedures for the removal of the restrictions imposed by such plan or program, and

(3) a schedule for implementing the provisions of section 552 of title V of the United States Code.

SEC. 312. JUDICIAL REVIEW.—Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases of controversies arising under this Act, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this Act. If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code.

SEC. 313. MATERIALS AND FUELS ALLOCATION.—To achieve the purposes of this Act, the President shall take such action as may be necessary to allocate supplies of materials, equipment, and fuels associated with exploration, production, refining, and required transportation of energy supplies to the extent necessary to maintain and increase the production of coal, crude oil, natural gas, and other fuels.

The President shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of materials associated with the production of energy supplies and equipment necessary to maintain and increase the production of coal, crude oil and other fuels. The results of this review shall be submitted to the Congress within thirty days of the date of enactment of this Act.

SEC. 314. ANTITRUST PROVISIONS.—(a) Except as specifically provided in subsections (f) and (k), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" includes—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.);

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.);

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) The President shall develop plans of action and may authorize voluntary agreements which are necessary to achieve the purposes of this Act and which encourage and facilitate cooperation and voluntary agreements between (1) the Federal Government, and (2) appropriate segments of the petroleum industry and interested and concerned labor, consumer, and other essential groups. These plans of action and voluntary agreements may be regional in nature or may address functional aspects of the Nation's petroleum system.

(d)(1) To achieve the purposes of this Act the President may, in addition to the National Energy Advisory Committee established by section 310 of this Act, provide for the establishment of interagency committees and such additional advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. app. I) and shall in

all cases be chaired by a regular full-time Federal employee.

(2) An appropriate representative of the Federal Government shall be in attendance at all meetings of any advisory committee or any interagency committee established pursuant to this Act. The Attorney General and the Federal Trade Commission shall have advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings and, subject to existing law concerning national security and proprietary information, shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

(e) The Attorney General and the Federal Trade Commission (1) shall participate in the preparation of any plans of action or voluntary agreement and may propose any alternative which would avoid or overcome, to the greatest extent practical, any anticompetitive effects while achieving the purposes of this Act, and (2) shall have the right to review, amend, modify, disapprove, or prospectively revoke any plan of action or voluntary agreement at any time if they determine such plan of action or voluntary agreement is contrary to the purposes of this section, or not necessary to achieve the purposes of this Act.

(f) Whenever it is necessary, in order to achieve the purposes of this Act, for owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such persons may do so and have the benefit of the defense provided for in subsection (k) if such meeting, conference, communication, or course of action is conducted in compliance with the provisions of this section and solely for the purpose of achieving the objectives of this Act.

(g)(1) The Attorney General may exempt types or classes of meetings, conferences, or communications from the requirements of subsections (d)(1) and (3) where such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of carrying out and implementing a plan of action or a voluntary agreement which has been prepared and approved pursuant to this section.

(2) Any meetings, conferences, or communications exempted from the requirements of subsections (d)(1) and (3) shall be undertaken in accordance with regulations promulgated to implement this section. These regulations shall provide that a log or memorandum of record of any meeting, conference, or communication covered by this subsection (g)(1) shall be prepared and filed with the Assistant Attorney General in charge of the Antitrust Division and the Federal Trade Commission.

(h) The President is authorized to delegate the authority provided for in section 314(c) and (d)(1) to a Federal officer appointed with the advice and consent of the Senate. The President shall issue regulations governing the operation and implementation of this section 314(c) and (d).

(i) No provision of this section is intended to supersede, amend, repeal, or modify any provision of the Defense Production Act of 1950, as amended, except that the provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action taken to implement the authority contained in this Act or the authority contained in the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973).

(j) This section 314 shall apply to the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, November 10, 1973) notwithstanding any inconsistent provisions of section 6(c) of that Act.

(k) There shall be available as a defense to any civil or criminal action brought under the antitrust laws arising from any course of action or from any meeting, conference, or communication or agreement held or made in compliance with the provisions of this section solely for the purpose of carrying out a plan of action, voluntary agreement, or otherwise undertaken solely to comply with the requirement this section.

(l) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way effecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act; (2) outside the scope and purpose of this Act and this section, or (3) subsequent to its expiration or repeal.

(m)(1) The Attorney General and the Federal Trade Commission are charged with responsibility for monitoring the implementation of any plan of action, voluntary agreement, regulation or order approved pursuant to section 314 to determine compliance with the purposes of section 101(h) and 102(h) of this Act.

(2) In furtherance of this responsibility, the Attorney General and the Federal Trade Commission wil promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts, and other records related to implementation of any plan of action, voluntary agreement, regulation, or order approved under this Act.

(3) Persons implementing any program, plan of action, voluntary agreement, regulation, or order approved under this Act will maintain those records required by joint regulations promulgated pursuant to subsection (1) above, and they shall be available for inspection by the Attorney General and the Federal Trade Commission at reasonable times and upon reasonable notice.

(n) The exercise of the authority provided in section 204(b)(1) shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing an opportuntiy for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

SEC. 315. GRANTS TO STATES.—The President is hereby authorized to make grants to any State or major metropolitan government, in accordance with, but not limited to, section 302 for the purpose of assisting such State or local government in developing, administering, and enforcing emergency fuel shortage contingency plans under this Act and fuel allocation programs authorized under the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, Nov. 10, 1973).

SEC. 316. STUDY OF HEALTH EFFECTS OF SULFUR OXIDE EMISSION.—In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 204(a) the Department of Health, Education, and Welfare shall, in cooperation with the Environmental Protection Agency, conduct a study of acute and chronic effects among exposed populations. The sum of $5,000,000 is authorized to be appropriated for such a study.

SEC. 317. EMERGENCY ENERGY ECONOMIC IMPACT STUDY.—(a) The Council of Economic Advisors, in cooperation with other agencies and departments, shall submit an Emergency Energy Economic Impact Report to the Congress. Such report shall include, but not be limited to the following assessments:

(1) Impact of energy shortage on employment loss and job dislocations; on agriculture planting and harvesting, including the impact on food and fiber prices; and on the various industries, factories, and flow of commerce and business.

(2) Impact of energy shortage on public services, including but not limited to hospitals, health care, public safety, and transportation.

(b) The above assessments shall include projections as to the impact on the economy during the first quarter of 1974 as well as the full calendar year.

(c) The report shall also include specific recommendations as to how the problems so identified can be minimized so as to reduce population hardship.

(d) A preliminary report is to be filed not later than thirty days after enactment of this Act and a final report not later than sixty days after enactment.

SEC. 318. AUTHORIZATIONS.—There are hereby authorized to be appropriated such funds as are necessary for the purposes of this Act.

SEC. 319. SEPARABILITY.—If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby.

TITLE IV—CLEAN AIR ACT AMENDMENTS

SEC. 401. Section 110 of the Clean Air Act, as amended (84 Stat. 1683), is amended by adding the following new subsection:

"(g)(1) During the period commencing November 15, 1973, and ending August 15, 1974, the Administrator is authorized to temporarily suspend any emission limitation related to control of pollutants resulting from fuel burning, or schedule or timetable for compliance with such emission limitation contained in any Federal, State, or local law, regulation, or requirement adopted under this Act as to any presently operating fuel burning stationary sources which is or would be in violation of such requirement due to actions ordered by the President under the National Energy Emergency Act of 1973, unless the Administrator determines that such suspension will present an imminent and substantial endangerment to the health of persons: *Provided*, That no such requirement may be suspended by the Administrator, unless the Administrator determines, (i) that such suspension is essential to enable redistribution of fuels to avoid or minimize violations of primary ambient air quality standards in another locality, or (ii) that the source does not or is not likely to have available, after implementation of all practicable measures in sections 203 and 204 of the National Energy Emergency Act of 1973, fuel which can be burned in compliance with such requirement. No suspension granted under this subsection shall extend beyond the period of unavailability of complying fuel and in no event beyond November 1, 1974.

"(2) To obtain a suspension pursuant to this subsection, the owner or operator of such a source shall submit to the Administrator an application for a suspension of the applicable requirement which demonstrates the need for the suspension, and which establishes that the applicant will maintain where practicable during the period of the suspension an emergency supply of fuel which complies with applicable requirements, in order to avoid presenting an imminent and substantial endangerment to the health of persons during periods of air stagnation. The Administrator on his own motion or at the request of the Governor of an affected State may initiate such a suspension for area sources.

"(3) In granting suspensions pursuant to this subsection the Administrator is authorized to reduce to ten days any Federal, State, or local time limits required for hearing

procedures. In case of extreme emergency and with the concurrence of the Governor, such hearings may be waived. In all instances, he shall notify the Governor of the State, and the chief executive officer of the local government entity in which the affected source or sources are located and, to the extent practicable, the public.

"(4) Except as specified herein, any suspensions given under this subsection shall be exempted from any procedural requirements set forth in this Act or any other provision of local, State or Federal law, and the granting of such suspension shall not be subject to judicial review under section 307 nor to any proceeding under section 304 of this Act. Nothing in this subsection shall affect the power of the Administrator to deal with sources presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act."

SEC. 402. Subsection (a) of section 110 of the Clean Air Act, as amended (84 Stat. 1681), is amended by adding the following new paragraphs:

"(5)(A) The Administrator shall review each applicable implementation plan and no later than May 1, 1974, determine for each State whether its plan must be revised in order to achieve the national primary or secondary standard within the deadlines established pursuant in this Act. In making such determination the Administrator shall consider any current or anticipated suspension under subsection (g) and any projected shortages of fuels or emission reduction systems. Upon making a determination the Administrator shall notify the State and require revisions of the applicable plan or portion thereof. Plan revisions for any State for which the Administrator determines its plan is inadequate shall be submitted not later than July 1, 1974, and shall be approved or disapproved by the Administrator, after public notice and opportunity for hearing, but not later than September 1, 1974. If a plan revision is disapproved the Administrator shall, after public notice and opportunity for a hearing, promulgate a revised plan not later than November 1, 1974.

"(B) The owner or operator of any fuel burning stationary source may request a revision of the implementation plan with respect to such source. The Administrator shall approve such revised plan, after public notice and opportunity for hearing, but within sixty days of such request, if he determines (i) that the owner or operator of such source is able to enter into a contractual obligation to obtain a continuous emission reduction system which the Administrator determines has been adequately demonstrated, or into a long term contract to acquire fuel of sufficiently low sulfur content to implement applicable air quality standards, and (ii) that modifications with respect to such source are consistent with the implementation plan for the attainment of ambient air quality standards and are in accordance with the provisions of subparagraph (D) of this paragraph: *Provided*, That the approval of the Administrator shall be contingent upon the owner or operator of such source entering into such a contractual obligation or long-term contract. Any such revision shall be incorporated into any plan revised pursuant to subparagraph (A) of this paragraph.

"(C) Notwithstanding subparagraph (a)(2)(11) of this section, a State may initiate a revision of its implementation plan consistent with the provisions of subparagraph (D) of this paragraph. The Administrator shall approve or disapprove such a revised plan within one hundred and twenty days after submission.

"(D) Such revised plans shall include legally enforceable compliance schedules for such fuel burning stationary source or sources, which schedules shall specify continuous emission reduction measures to be used to achieve compliance, interim steps of progress, and alternate interim control measures to minimize the emissions of pollutants pending final compliance with applicable emission limitations. Actions taken under this paragraph shall be taken in accordance with procedures prescribed in this Act and shall be subject to judicial review in accordance with the Act: *Provided, however*, That the final date for compliance for sources regulated under this section may not extend beyond July 1, 1977, except in the case of extensions granted pursuant to subsection (f) of this section.

"(E) The Administrator shall report to the Congress by May 1, 1974, on the extent to which any applicable State or local air pollution requirement or deadline may adversely affect the implementation of the National Energy Emergency Act or of this paragraph.

"(6) In order to minimize the need for suspensions under subsection (g) of this section and to provide for interim compliance under paragraph (5)(D) of this subsection, the Administrator is authorized and directed to redistribute within an area designated pursuant to section 203(b)(1) of the National Energy Emergency Act, after consultation with the Secretary of the Interior, allocated fuels on a sulfur content basis to insure, to the maximum extent practicable, that such fuels are utilized in a manner that will minimize adverse effects on health.

"(7) The Administrator may take such actions as are necessary to assure that emission reduction systems are first provided to users in air quality control regions with the most severe air pollution except that no such action shall affect existing contracts."

TITLE V—ASSISTANCE TO PERSONS ADVERSELY AFFECTED BY THIS ACT

SEC. 501. ASSISTANCE TO PERSONS UNEMPLOYED AS A RESULT OF THIS ACT.—(a) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred and shall be reduced by an amount of private income protection insurance compensation available to such individual for such period of unemployment.

(b) FOOD STAMPS.—(1) Whenever the President determines that, as a result of any such employment loss, low-income households are unable to purchase adequate amounts of nutritious food, the President is authorized, under such terms and conditions as it may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964, as amended, and to make surplus commodities available.

(2) The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the employment loss on the earning power of the households to which assistance is made available under this section.

(3) Nothing in this subsection shall be constructed as amending or otherwise changing the provisions of the Food Stamp Act of 1964, as amended, except as they relate to the availability of food stamps in such an employment loss.

(c) REEMPLOYMENT ASSISTANCE.—The Secretary of Labor is authorized and directed to provide reemployment assistance services under other laws of the United States to any such individual so unemployed. As one element of such reemployment assistance services, such Secretary shall provide to any such unemployed individual who is unable to find reemployment in a suitable position within a reasonable distance from home, assistance to relocate in another area where such employment is available. Such assistance may include reasonable costs of seeking such employment and the cost of moving his family and household to the location of his new employment.

(d) SMALL BUSINESS LOANS.—(1) The President, acting through the Small Business Administration, is authorized and directed to make loans (which for purposes of this subsection shall include participations in loans) to aid in financing any project in the United States for the conduct of activities or the acquisition, construction, or alteration of facilities (including machinery and equipment) required by the administration or enforcement of this Act, for applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality (including units of general purpose local government) is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation or at previous levels of employment.

(2) Financial assistance under this section shall be on such terms and conditions as the President determines except that—

(A) no loan shall be made unless it is determined that there is reasonable assurance of repayment;

(B) no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years;

(C) loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum;

(D) loans shall not exceed the aggregate cost to the applicant of acquiring, constructing, or altering the facility or project;

(E) the total of all loans to any single applicant shall not exceed $1,000,000; and

(F) the facility or project has been certified by the regulatory authority as necessary to comply with the requirements of this Act.

(e) APPROPRIATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(f) REPORT TO CONGRESS.—The Secretary shall report to the Congress on the implementation of this section not later than six months after the enactment of this Act, and annually thereafter. The report required by this subsection shall include an estimate of the funds which would be necessary to implement this section in each of the succeeding three years.

TITLE VI—MISCELLANEOUS

SEC. 601. CONSULTATIONS WITH CANADA.—(a) The President is authorized and directed to convene consultations with the Government of Canada, at the earliest possible date, to explore means to safeguard the national interests of the United States and Canada through consultations covering trade in nat-

ural gas, petroleum, and petroleum products between Canada and the United States, so as to encourage the maximum volume of such trade consistant with the interests of both nations.

(b) The President shall report to the Congress, on an interim basis, on the progress of such consultations as may be undertaken pursuant to this section, within forty-five days of passage of this Act.

(c) The President shall issue a final report to the Congress on the results of such consultations as may be undertaken pursuant to this section, within ninety days of enactment of this Act. Such report shall include recommendations of such legislation as the President shall deem necessary to further the purposes of this Act.

SEC. 602. NATIONAL ENERGY EMERGENCY DISASTER ASSISTANCE PLAN.—(a) Where, in the determination of the President, the national energy emergency is, or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of State, local governments, and relief organizations in alleviating the damage, loss, hardships, or suffering caused thereby, and with respect to which the Governor of any State in which such a severe emergency exists or threatens to exist certifies the need for Federal disaster assistance under the Disaster Relief Act of 1970, as amended, and gives assurance of the expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from such emergency, the President may designate one or more major disaster areas under the terms of the Disaster Relief Act of 1970, as amended.

(b) The President shall require the Federal Disaster Assistance Administration to promulgate, not later than fifteen days after the date of enactment of this Act, a nationwide contingency plan for insuring the availability of Federal disaster assistance to families, individuals and communities that qualify for such assistance as a result of the nationwide energy emergency. Such plan shall include, but not be limited to, specific procedures for:

(1) coordinating activities of all Federal, State and local disaster relief and civil defense officials for the purpose of establishing neighborhood centers to provide emergency heat, food and shelter for individuals and families who, as a result of the energy emergency, require such assistance;

(2) distribution of surplus food commodities by the Secretary of Agriculture pursuant to the Food Stamp Act of 1964 and the provisions of section 203 of the Disaster Relief Act of 1970, when the President determines that, as a result of unemployment caused by industrial or commercial energy shortages, households are unable to purchase adequate amounts of nutritious foods; and

(3) provision of the necessary emergency personnel, equipment, supplies, facilities and other resources in accordance with the authority granted under the Disaster Relief Act of 1970, necessary to help in alleviating the damage, loss, hardship or suffering caused by the national energy emergency.

SEC. 603. PROHIBITION OF FUNDS FOR PURCHASE, HIRE, OR OPERATION AND MAINTENANCE OF PASSENGER MOTOR VEHICLES.—(a) No funds made available under any Act may be used for the purchase, hire, or operation and maintenance of passenger motor vehicles (other than passenger motor vehicles of the types generally available in motor pools of Government agencies on the date of enactment of this Act) or for the salaries or expenses of chauffeurs or drivers to operate passenger motor vehicles, except in carpools.

(b) No funds made available under any Act may be used for the purchase, hire, or operation and maintenance of any passenger motor vehicle for the transportation of any Government officer or employee between his dwelling and his place of employment, except in cases of medical officers on outpatient medical service and except in cases of officers and employees engaged in fieldwork in remote areas, the character of whose duties make such transportation necessary and only when such exceptions are approved by the head of the department concerned.

(c) Subsections (a) and (b) shall not apply with respect to the purchase, hire, operation, and maintenance of (1) passenger motor vehicles for use by the President; and one each by the Chief Justice, members of the President's Cabinet, and the elected leaders of the Congress; or (2) of passenger motor vehicles operated to provide regularly scheduled service on fixed routes.

SEC. 604. REPORTS OF THE PRESIDENT TO CONGRESS.—The President shall report to the Congress every sixty days, beginning December 1, 1973, on the administration of this Act and the Emergency Petroleum Allocation Act of 1973, and each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts, together with specific budget estimates for such programs.

SEC. 605. USE OF CARPOOLS.—(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this subsection to maximize the level of carpool participation in America.

(b) The Secretary of the United States Department of Transportation is directed to establish within the Department of Transportation an "Office of Car Pool Promotion" whose purpose and responsibilities will include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll reductions and other incentives as may be found beneficial to the furtherance of carpool ridership.

(d) The Secretary of Transportation is directed to allocate the funds appropriated pursuant to this subsection according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial start-up and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed one year.

(e) Within twelve months of enactment of this legislation the Secretary shall make a report to Congress of all its activities and expenditures pursuant to this subsection. This shall include any recommendation as to future legislation concerning carpooling.

(f) The sum of $25,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this subsection, such authorization to remain available for two years.

SEC. 606. PETROLEUM ALLOCATION FOR MINERAL PRODUCTION.—The President is authorized to allocate residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction and processing of, minerals, and for required transportation related thereto.

SEC. 607. PROTECTION OF FRANCHISED DEALERS.—(a) As used in this section—

(1) "Distributor" means an oil company engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) "Franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) "Notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) "Petroleum product" means any liquid refined from oil and useable as a fuel.

(5) "Refiner" means an oil company engaged in the refining or importing of petroleum products.

(6) "Retailer" means an oil company engaged in the sale of any petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such

suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraphs (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist, including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and punitive damages where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. The court may also grant an award for actual damages resulting from the cancellation, failure to renew, or termination of a franchise.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

The title was amended so as to read:

"A bill to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes."

Mr. JACKSON. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. FANNIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized, in the engrossment of the bill, to make certain technical and clerical corrections.

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

Mr. MANSFIELD. Mr. President, I simply wish to take this opportunity to extend my gratitude and the gratitude of the entire Senate to the Senator from Washington (Mr. JACKSON). His able handling of this emergency energy proposal reflects well upon each and every Member of this body. With the passage of this proposal goes the clear message that the Senate of the United States has initiated action to meet the Nation's energy crisis while the executive branch and its so-called experts have failed to provide any measures to offset our current difficulties. I congratulate Senator JACKSON. I congratulate the Senate.

Mr. FANNIN. Mr. President, let me take this opportunity to compliment my many colleagues who worked so diligently on this bill, S. 2589. Particularly let me commend the chairman of the Interior Committee, Senator JACKSON, for his fair and impartial handling of this most important legislation. Also, I want to recognize the hard work of the Senator from Wyoming (Mr. HANSEN) for his untiring efforts to fashion a bill that will accomplish the many essentials necessary to meet this energy crisis.

Mr. President, I thank also Mr. Harrison Loesch, Interior Committee minority counsel; Mr. David Stang, deputy counsel for the minority on energy and fuels; and Mr. Fred Craft, deputy minority counsel for the Interior Committee, for their long hours and expertise on this bill, which saw 17 rollcall votes today. Let me thank also Mr. Bill Van Ness, majority counsel, and Mr. Mike Harvey, special counsel, for their many contributions.

Mr. President, with further regard to our distinguished chairman, I commend him again on his leadership as floor manager of this bill. The President called for early action on his emergency energy legislation, and Senator JACKSON indeed responded with early hearings and prompt committee action on this bill. Although the general spirit of cooperation on this bill was basically nonpartisan throughout, I was somewhat disappointed that each of the amendments the administration requested on this bill—specifically my amendments Nos. 690, 691, 692, 693, and 671, and Senator HANSEN's amendment No. 682—were opposed by the manager of the bill and, as a result of his opposition, defeated.

Mr. President, this bill entailed a tremendous amount of work. I am very pleased that we have had the full cooperation of the people I have mentioned.

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, to keep the regular procedure in its correct stance, I ask unanimous consent that there now be a period for the conduct of morning business with a time limit of 3 minutes attached thereto for each speaker.

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

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. HELMS) laid before the Senate a message from the President of the United States submitting the nomination of Raymond C. Anderson, of Michigan, to be Federal Cochairman of the Upper Great Lakes Regional Commission, which was referred to the Committee on Public Works.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

ANNUAL REPORT OF THE SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury transmitting, pursuant to law, the annual report on the state of the finances of the United States Government for the fiscal year ended June 30, 1972 (with an accompanying report). Referred to the Committee on Finance.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into within the past 60 days (with accompanying papers). Referred to the Committee on Foreign Relations.

PROPOSED LEGISLATION BY THE JUDICIAL CONFERENCE

A letter from the Director of the Judicial Conference of the United States transmitting a draft of proposed legislation to enlarge the trial jurisdiction of United States magistrates to encompass additional misdemeanors (with accompanying papers). Referred to the Committee on the Judiciary.

DEPARTMENT OF DEFENSE ENERGY CONSUMPTION

A letter from the Assistant Secretary of Defense for Legislative Affairs transmitting, for the information of the Senate, material showing the energy consumption of the Department of Defense (with accompanying papers). Ordered to lie on the table.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution adopted by the Senate of the Commonwealth of Massachusetts. Ordered to lie on the table:

"RESOLUTIONS

"Memorializing the Congress of the United States to enact legislation permitting year-round daylight saving time

"Whereas, Daylight saving time, in effect for only half of the year in many states of the United States, including Massachusetts, is greeted with enthusiasm as a means of lengthening daylight hours; and

"Whereas, In these critical days of fuel shortages and energy crises, especially in New England, longer daylight hours would help alleviate the necessity for increased fuel consumption; and

"Whereas, Oil, heat and fuel have become an open instrument of Arab and Soviet Military and foreign policy; the conservation of United States oil resources through the extension of daylight saving time will help relieve international pressures of the oil blackmail cartel; and

"Whereas, Additional daylight hours would provide several other advantages to the citizens of the Commonwealth, such as fewer traffic accidents, less incidence of crime and the opportunity for increased outdoor leisure activities; now, therefore, be it

"*Resolved*, That the Massachusetts Senate memorializes the Congress of the United States to enact legislation amending the present daylight saving time statute to enable the Commonwealth of Massachusetts and other states to adopt year-round daylight saving time; and be it further

"*Resolved*, That copies of these resolutions be sent forthwith by the Senate Clerk and Parliamentarian to the presiding officer of each branch of the Congress of the United States and to each member thereof from the Commonwealth.

"Senate, adopted, November 6, 1973."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

H.R. 11459. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93-548).

By Mr. CANNON, from the Committee on Rules and Administration:

S. Res. 204. An original resolution to pay a gratuity to Emiko Kuraoka.

REPORT ENTITLED "EMERGENCY POWERS STATUTES: PROVISIONS OF FEDERAL LAW NOW IN EFFECT DELEGATING TO THE EXECUTIVE EXTRAORDINARY AUTHORITY IN TIME OF NATIONAL EMERGENCY"—REPORT OF A COMMITTEE—(S. REPT. NO. 93-549)

Mr. MATHIAS, from the Special Committee on the Termination of the National Emergency, submitted, pursuant to Senate Resolution 9, 93d Congress, 1st session, a report entitled "Emergency Powers Statutes: Provisions of Federal Law Now in Effect Delegating to the Executive Extraordinary Authority in Time of National Emergency," which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Robert J. Roth, of Kansas, to be U.S. attorney for the district of Kansas.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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. MOSS:

S. 2723. A bill for the relief of Hector Alejandro Pedrella. Referred to the Committee on the Judiciary.

By Mr. SCHWEIKER:

S. 2724. A bill to establish a Federal Radiation Protection Agency, to transfer certain functions of the Atomic Energy Commission and other departments and agencies to such Agency, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. BEALL:

S. 2725. A bill to provide for the establishment of a national cemetery in the State of Maryland. Referred to the Committee on Veterans' Affairs.

By Mr. TAFT (for himself and Mr. McINTYRE):

S. 2726. A bill to authorize the Secretary of Housing and Urban Development to make disaster grants necessary to meet essential needs of disasters victims. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. DOMINICK (for himself, Mr. TAFT, and Mr. BEALL):

S. 2727. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes. Read the first time; second reading objected to; and ordered to lie over one day.

By Mr. DOMINICK:

S.J. Res. 173. A joint resolution to authorize and request the President of the United States to appoint a National Commission for the Control of Epilepsy and its Consequences to be charged with the responsibility of developing a National Plan for the Control of Epilepsy and its Consequences. Referred to the Committee on Labor and Public Welfare.

By Mr. ABOUREZK (for himself, Mr. McGOVERN, Mr. YOUNG, Mr. MONDALE, Mr. HUMPHREY, Mr. HUGHES, Mr. MANSFIELD, Mr. METCALF, Mr. BAYH, and Mr. BURDICK):

S.J. Res. 174. A joint resolution to direct the Interstate Commerce Commission to provide an equitable formula for the distribution of grain cars. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TAFT (for himself and Mr. McINTYRE):

S. 2726. A bill to authorize the Secretary of Housing and Urban Development to make disaster grants necessary to meet essential needs of disaster victims. Referred to the Committee on Banking, Housing and Urban Affairs.

EMERGENCY DISASTER RECOVERY ACT OF 1973

Mr. TAFT. Mr. President, for myself and the distinguished Senator from New Hampshire (Mr. McINTYRE), I am introducing the Emergency Disaster Recovery Act of 1973.

I use the term "emergency" because the present level of assistance for Americans whose homes and personal property are severely damaged by floods or other natural disasters is cleary inadequate. As a result of legislation which Congress passed last spring, even a homeless low or moderate income family with a sizable mortgage on a residence that has been destroyed completely can receive only a 5-percent loan from the Federal Government. This meager level of assistance seems all the more unreasonable when one reflects that less than 10 days after the bill passed which eliminated disaster "forgiveness" grants, the President asked for as much money as necessary to help victims of the Nicaraguan earthquake.

Earlier this session I offered an amendment to S. 1672, the Small Business Act, amendments, which would have remedied this situation by allowing disaster victims up to $2,500 in forgiveness grants depending on their incomes. Provisions were added in the Senate which raised the maximum forgiveness amount and in conference the proposed interest rate was lowered from 5 percent to 3 percent, or 1 percent if a person chose not to take any forgiveness. The sliding scale I had proposed, which related benefits to income, was dropped in conference because of claimed technical objections raised by the Treasury Department. The President then vetoed the bill largely on cost grounds, and because it made the same maximum grant and interest terms available to all disaster victims regardless of need.

I am aware that the administration has major disaster assistance legislation pending which transfers many disaster relief functions from the Federal Government to the States. Although there are some constructive ideas proposed in this legislation, frankly I am not convinced enough that this bill would be a major improvement over our present disaster relief program to press for its immediate enactment. In any event, the Banking, Housing and Urban Affairs Committee has a busy schedule and the committee does not seem disposed to take up this bill in the near future. Meanwhile, the need for restoring adequate assistance for disaster victims continues.

The legislation which I am introducing is quite a different approach from loan forgiveness. It is tailored to individual needs, thus meeting one of the administration's main objections to the Small Business Act amendments. In addition, it provides grant relief only for repair or replacement of noncommercial property, retains the 5-perent interest rate rather than lowering it as Congress proposed this summer. Both of these provisions will limit its cost considerably. My proposal also increases State and local disaster relief involvement as the administration has advocated.

Basically, my proposed legislation would allow the Federal Disaster Assistance Administration in the Department of Housing and Urban Development to make grants which cover essential expenses relating to the repair or replacement of housing and other personal noncommercial property. Grant amounts would be limited to expenses which could not be covered through other means, including the Federal 5-percent disaster relief loans, without causing the family affected by the disaster to incur financial hardship. These amounts would be determined on a case-by-case basis, but the total appropriation for grants per disaster could not exceed $2,500 multiplied by HUD's estimate of the number of families in need of grant assistance.

The casework involved would be done by the American National Red Cross or other public or private nonprofit agencies or organizations with whom HUD contracts, or by HUD in areas without suitable agencies or organizations. The suggested amount per family would be certified by such groups to any "local citizens' review board", recognized by either the State or the local, Government as, HUD deems appropriate and designated to review such certifications and possibly make alterations. HUD could supply a grant amount to an affected family which differs from the amount certified, as altered by any local citizens' review board, only if the reasons for so doing were stated in writing. The certifying groups could also submit evidence to be considered by HUD when making its determination of the aggregate appropriation for grants related to a given disaster, as explained in the above paragraph.

My legislation does not affect the pending flood insurance legislation. It also leaves intact the provision of present law—effective December 31, 1973—which prohibits use of any Federal disaster assistance, including that proposed under this Act, for repair or replacement of property which could have been covered by flood insurance in areas where flood insurance has been available for more than 1 year.

The American National Red Cross, which determined grant amounts for disaster victims under a system similar to my proposal for years, strongly supports this bill. I hope that other affected groups and individuals will supply their comments quickly, because I may offer my proposal as an amendment to upcoming legislation. Such an amendment would at least put the proposal into effect for a trial period long enough to be sufficient for evaluation purposes.

We have been lucky enough to escape any major natural disasters since the enactment of the legislation which repealed forgiveness grants. Nevertheless, I am convinced that the next time one occurs, the importance of early action on legislation such as this will become quite clear. I hope that we do not discover this fact the hard way.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 2726

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 "Emergency Disaster Recovery Act of 1973."

AUTHORITY

SEC. 2. The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized upon such terms and conditions as he may prescribe to make grants to families for the purpose of covering essential unmet expenses relating to the repair, rehabilitation, or replacement of residential and personal property which are necessitated by any major disaster, natural disaster, or disaster determined by the President, the Secretary of Agriculture, the Administrator of the Small Business Administration, or the Secretary, as the case may be.

LIMITATION

SEC. 3. The aggregate amount expended for grants under section 2 in connection with any disaster may not exceed an amount equal to $2,500 multiplied by the Secretary's estimate of the number of families affected by the disaster who will need such grants. Such estimate shall take into account evidence submitted by those private nonprofit organizations, public agencies or local citizens' review panels which take part in the process of certifying grant amounts for families pursuant to the provisions of Section 4, and by such other sources as the Secretary deems appropriate.

ADMINISTRATION

SEC. 4. (a)(1) The Secretary is authorized to enter into contracts or other arrangements with the American National Red Cross, or with any other private nonprofit relief and disaster assistance organization or any State or local public agency which he determines has the capacity to assist him effectively in carrying out the provisions of this act. Such contracts or other arrangements shall provide that such organizations or agencies shall serve as a contact for families in need of assistance in a disaster area and establish and certify to a local citizens' review panel, or in the absence of such a panel, to the Secretary, the amount of the essential expenses of each such family relating to the repair, rehabilitation, or replacement of residential and personal property which each such family cannot meet through personal financial resources and assistance from other public or private sources without incurring financial hardship. The Secretary may make such certifications in any disaster area where he determines that no agency or organization exists which meets the criterion established by this paragraph.

(2) For the purpose of this subsection, a local citizens' review panel is any board, commission, organization, or agency which the Secretary determines—

(A) is established or designated for the purpose of reviewing certifications under this subsection and recommending to the Secretary adjustments in amounts certified;

(B) is recognized for such purpose by either the unit of general purpose local government or the government of the State in which the disaster area is located, as the Secretary deems appropriate; and (C) is representative of the citizens of the disaster, including persons affected by the disaster.

(b) The Secretary shall accept any certification or recommendation made pursuant to subsection (a)(1) and make a grant in the amount certified or recommended unless he determines—

(1) that such amount is inadequate or in excess of the amount necessary to meet the criterion established in subsection (a)(1); or

(2) that such amount will result in aggregate grants in excess of the limitation contained in section 3; in which cases he shall supply a written explanation of the basis for such a determination.

(c) The provisions of sections 3679(b) and 3709 of the Revised Statutes (31 U.S.C. 665 (b) and 41 U.S.C. 5) do not apply in the administration of this Act.

(d) The functions conferred on the Secretary by this Act shall be carried out through the Federal Disaster Assistance Administration

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. DOMINICK:

S.J. Res. 173. A joint resolution to authorize and request the President of the United States to appoint a National Commission for the Control of Epilepsy and its Consequences to be charged with the responsibility of developing a national plan for the control of epilepsy and its consequences. Referred to the Committee on Labor and Public Welfare.

Mr. DOMINICK. Mr. President, I introduce for appropriate reference a Senate joint resolution expressing the sense of Congress that the President should appoint a National Commission for the Control of Epilepsy and its Consequences. The Commission would have the responsibility of developing a national plan for the control of epilepsy and its consequences.

As most of my colleagues are aware, the month of November has been designated by the President of the United States as "National Epilepsy Month." This is indicative of the recent growing awareness that epilepsy is a problem of national magnitude. Epilepsy is indeed a major national health problem—both in terms of cost and suffering. It touches the lives of more than 4 million Americans at the present time, and thousands of additional cases arise each year as the result of head trauma alone. The total cost to society from this debilitating neurological disorder is estimated at $7 billion annually.

Epilepsy strikes all age groups, but particularly the young. For example, more than 670,000 elementary school children and more than 300,000 secondary pupils, are afflicted with epilepsy. If left untreated, it creates severe learning barriers, deters social development, and prevents its victims from achieving self-sufficiency. With proper treatment, epilepsy can usually be controlled and its victims can live productive lives—providing they are among the lucky ones with access to adequate treatment and the resources to pay for it.

One of the most difficult barriers to adequate treatment of epilepsy victims—and one of the most challenging problems facing the new National Commission for the Control of Epilepsy and its Consequences—is public ignorance about this widely misunderstood disorder. With reference to epilepsy, Hipprocrates said:

> It is thus with the disease called Sacred: it appears to me to be nowise more divine nor more sacred than other diseases, but has a natural cause from which it originates like other afflictions. Men regard its nature and cause as divine from ignorance and wonder, because it is not at all like other diseases.

Hipprocrates, who lived in the fourth century before Christ, had seen epilepsy, but unlike most who lived during his time, thought it had natural causes, rather than being the result of demonic possession or other supernatural forces. Today, modern science has proven him right. Yet some 2,400 years after Hipprocrates' time, all our modern knowledge has led neither to adequate care, nor to widespread understanding.

If epilepsy were contagious, perhaps a Jonas Salk would have attacked it. National attention and resources would have been focused on the problem of stopping an epidemic of such magnitude. But epilepsy is not contagious, and it is usually not fatal. Nevertheless, it is extremely destructive.

So, Mr. President, I believe it is time to begin to focus more national attention and resources on the problem of epilepsy. This resolution is intended to accomplish that.

The National Commission which the President is called upon to appoint will have an enormous task before it. Charged with developing a national plan for the control of epilepsy and its consequences, it must incorporate into its membership representatives of the many organizations, agencies, societies and expert individuals concerned with the medical, social and educational aspects of epilepsy management. Under the coordinating umbrella of the Epilepsy Foundation of America, these groups will act and speak as one in surveying resources, identifying gaps in available modalities, and developing the comprehensive plan.

Paul E. Funk, executive vice president of the Epilepsy Foundation of America, has said:

Epilepsy creates the *most complex* set of problems confronting our society. Solutions will require the person with epilepsy to join in his own fight to focus attention on the unwarranted problems he faces. But this is only a beginning. The *total society* must involve itself to end the suffering, the inhumanity, the waste and the indignity of epilepsy.

As a member of the honorary board of directors of the Epilepsy Foundation of America, I am pleased to introduce this resolution. I hope my colleagues share my conviction that the focusing of national attention on the problem of epilepsy is long overdue, and that they will therefore act quickly on this resolution.

Mr. President, I ask unanimous consent that the text of Senate Joint Resolution 173 be printed in the RECORD at the conclusion of my remarks, along with excerpts from a 1973 publication of the Epilepsy Foundation of America entitled, "The Cost of the Epilepsies—To Individuals, Families and to the Nation."

There being no objertion, the joint resolution and excerpts were ordered to be printed in the RECORD, as follows:

S.J. RES. 173

To authorize and request the President of the United States to appoint a National Commission for the Control of Epilepsy and its Consequences to be charged with the responsibility of developing a National Plan for the Control of Epilepsy and its Consequences

Whereas there are approximately four million Americans with the neurological disorder known as epilepsy, and thousands of additional cases arise each year as the result of head trauma alone; and

Whereas epilepsy is a major health problem for which no satisfactory solution has been developed, placing an insufferable economic, social and psychological burden upon individuals, families, and the nation as a whole; and

Whereas a problem of this magnitude affects our entire society, even though the social stigma associated with epilepsy encourages its victims to conceal their affliction; and

Whereas medical knowledge and technical methodologies now available are not being applied to this problem on a broad scale, with balanced interdisciplinary action; and

Whereas effective management of epilepsy demands the concerted attention of many disciplines—medicine and health education, as well as rehabilitation services and public assistance; and

Whereas the determination and ability to mobilize expert resources within these disciplines to seek solutions to this massive public health problem have been demonstrated by the Epilepsy Foundation of America: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized and requested to appoint a National Commission for the Control of Epilepsy and its Consequences; and that such Commission be charged with the responsibility of developing a National Plan for the Control of Epilepsy and its Consequences. The Commission shall consist of not more than 15 members, who shall be appointed from persons who by reason of experience or training in the medical, social or educational aspects of the epilepsies, including consumers of services, are specially qualified to serve on such Commission.

(b) The duties of such Commission shall be to—

(1) call together a National Conference of Concerned Organizations, under the coordinating arm of the Epilepsy Foundation of America, with the purpose of stating the problems and defining the gaps in and barriers to existing health care delivery systems;

(2) designate representatives to a Medical Advisory Panel, a Psycho-Social Advisory Panel, and an Information and Education Advisory Panel, which panels shall provide reports to and assist the Commission in making a comprehensive study of the state-of-the-art of medical and social management of the epilepsies in the United States;

(3) investigate and make recommendations concerning the proper roles of the Federal and State Governments, and national and local public and private agencies in research, prevention, identification, treatment, and rehabilitation of persons with epilepsy;

(4) develop a comprehensive National Plan for the Control of Epilepsy and its Consequences based on the most thorough, complete, and accurate data and information available on the disorder; and

(5) transmit to the President and the Congress no later than one year after the National Conference of Concerned Organizations is convened, a report detailing the findings and conclusions of the Commission, together with such recommendations, including recommendations for legislation and appropriations, as it deems advisable.

(c)(1) Any member of the Commission who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of his duties.

(2) Members of the Commission other than those referred to in paragraph (1) shall receive compensation at rates not to exceed the daily rate prescribed for GS-18 under section 5332, title 5, United States Code, for each day they are engaged in the performance of their duties including traveltime and, while so serving away from their homes or regular places of business, they shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expense authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

(d) Such Commission shall cease to exist ninety days after the submission of the final report required by subsection (b)(5).

(e) There is authorized to be appropriated to carry out this joint resolution $200,000.

THE COST OF THE EPILEPSIES TO INDIVIDUALS, FAMILIES AND TO THE NATION

FOREWORD

The total cost of the epilepsies to individuals, to families and to the nation is—literally—incalculable whether in economic terms of human suffering and tragedies.

Estimates of that cost—in dollars alone—range up to as much as $7 billion and that figure may well be a reasonably accurate one.

In this particular study, however, the aim of the Epilepsy Foundation of America in assembling data has been to utilize only those figures *readily verifiable*. Most of these come from official Federal government sources. The data indicates an annual cost of at least $4.247 billion.

Whatever the actual figure, it is all too clear that the epilepsies pose *a major national health problem* and one to which the nation should address itself in meaningful fashion as rapidly as possible.

I. HISTORY

In 1945, the seventy-ninth Congress heard the testimony of Dr. William Lennox before the Subcommittee on Aid to the Physically Handicapped pursuant to "a resolution authorizing the Committee on Labor to conduct an investigation of the extent and character of aid now given by the federal state, and local governments and private agencies to the physically handicapped."[1] On behalf of persons with epilepsy, Dr. Lennox appealed for a shifting of priorities, stating that if one cent of every dollar which epilepsy costs the patient and the public were spent for research, probably something like a million dollars would be available annually.[2] Twenty-eight years ago, the affliction of epilepsy cost the nation an estimated $100,000,000 annually.

Two other estimates of the cost of epilepsy to the United States shed additional light on the extent of the problem. The National Epilepsy League stated in 1955 that a conservative estimate of the cost of epilepsy in the United States ranged upwards to $80,000,000 annually. NEL added that the cost of lost man hours to industry is beyond calculation.[3] In a look at limited aspects of the public costs of epilepsy, Winston and Chillman found that in 1963 public assistance agencies paid $38.7 million to recipients with a diagnosis of epilepsy and an additional $9.4 million for medical supplies and services, a total of over $48 million in direct public assistance expenditures for persons with epilepsy. In addition to these estimates, the authors extrapolated from "incomplete data" that the cost of the care of persons with a primary diagnosis of epilepsy and other convulsive disorders in mental hospitals and institutions for the mentally retarded was about $55 million in 1962.[4]

In 1972, the National Institute of Nuerological Diseases and Stroke (NINDS) of the National Institutes of Health increased their estimate of the prevalence of epilepsy from their 1971 estimate of 2,000,000 persons to 4,000,000 persons. Logically, this would also double their earlier cost of care, making the figure $4 billion in 1972.[5] This figure was described as "an educated guess" by NINDS, and was comprised of costs calculated on the assumptions per year for maintenance: a) that the partially disabled individual spends approximately $500 per year on drugs, physicians' fees and special management; b) that the cost of care for the totally disabled individual in the home is approximately $2,000 annually; and (e) that the cost of one year's maintenance of the totally disabled individual in a public or private institution is between $2,500 and $7,500.[6]

These figures are staggering, but they reveal only part of the cost. Measurements of "wasted human potential", the trauma of social alienation, the psychological effects of economic dependence and depreciation of self-worth cannot be extracted from statistical tables and data charts. In this sense, there is a realization that any estimation of the cost of an illness to the nation is a mechanized conjecture, and the task of accounting for the tolls upon human life is rife with paradox.

The purpose of this report is to view epilepsy in economic terms. The cost of adequate medical care, ameliorate social services, economic assistance and the conglomerate of necessary educational, vocational and psychological service programs that are used in the treatment of any developmental disability provide a general understanding of the economics of the disorder. Complicating the effort to calculate the monetary costs are such factors as "hidden costs"—those imposed by arrested education or vocational opportunities, the lack of statistical data on epilepsy as a secondary or tertiary disability, and the scarcity of specific tabulated data for public assistance populations.

The methodology utilized to arrive at the estimates provided in the report was essentially the itemization of identifiable cost

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Footnotes at end of article.

factors, assisted by extrapolation in many instances. The following cost factors are included: physician fees, anticonvulsant medications, the cost of institutionalization, special education, vocational rehabilitation, various public assistance programs, medical and social research, unemployment wages and hour loss, and veterans' benefits.

One of the major variables in this and other cost studies is the approximation of the number of persons with epilepsy, a highly disputable factor in any analysis of the disorder. There are no accurate statistics on the prevalence or incidence of epilepsy. The social stigmas associated with publicly-held superstitions concerning epilepsy pose a difficulty in "counting heads" of persons with epilepsy. Furthermore, epilepsy is not required to be reported by a physician to his state health department in most states.

The National Institute of Neurological Diseases and Stroke estimates the number of epilepsy-affected persons in the U.S. to be between 2 and 4 million, a prevalence rate of between 1 and 2%. However, Dr. J. Kiffin Penry, Head, Section on Epilepsy, NINDS, has stated that "for each patient with epilepsy who seeks medical care, there are others who go undiagnosed and still others who hide their disorder."[7] Drs. Penry and Coatsworth also stated that:

"Accurate incidence of the epilepsies is not truly known. . . . Any number cited only approximates the real incidence, and this incidence in any event, is high enough to constitute a great problem. . . . It is not likely that more intensive studies of the incidence or prevalence of either the acute or chronic epilepsies will bring forth their true cause or improve methods of therapy. They can, however, bring to public attention the seriousness of these disorders, pointing out the cost of caring for the epileptic patient as well as need for further research.[7 8]

In an effort to realistically assess the rate of prevalence, the Professional Advisory Board of the Epilepsy Foundation of America has stated that at least two percent of the population, or approximately four million persons in the United States, have a convulsive disorder. This prevalence rate is used in this report.

This report first examines the public costs of epilepsy as involved in federal assistance programs and ends with a statement of private costs.

XI. SPECIAL EDUCATION

Rapid advances have been made in the past ten to fifteen years in moving the majority of children with epilepsy into the regular school system. There are indications, however, that many children with epilepsy have problems entering and remaining in school. A survey of educational policy toward school children with epilepsy in this country revealed that school policy and admissions procedures were set by State or local departments of education and administered by school personnel, generally without medical and social work consultation.[9]

Unimpaired education is essential to the realization of full autonomy and economic independence for the handicapped. The Illinois State Department of Public Instruction, in an attempt to assess the value of special education, stated that "if we had to compute a return on our investment, in terms of dollars and cents, we estimate the return has been at least ten to one for every dollar invested."[10]

Costs of these programs vary widely, not only within the range of provider institutions. Expenditures vary not only from state the decentralization of educational jurisdictions. Expenditures vary not only from state to state, but within the states, from district to district. They are influenced by the willingness of voters to support mileage proposals and the variant costs of living and subsequent wage differentials.

Estimates of the specific costs of educating the child with epilepsy are subject to the difficulties imposed by inadequate epidemiological studies. Utilizing the 2% prevalence rate accepted by the Epilepsy Foundation of America, it can be estimated that in 1971 there are approximately 973,800 school children afflicted with epilepsy in the United States. Table X–1 provides an analysis of the numbers of school children with epilepsy.

TABLE XI–1.—*Schoolchildren with epilepsy, 1971*

Number of elementary children	33,507,000
Number of elementary children with epilepsy (2 percent)	670,140
Number of elementary children with epilepsy requiring special education (30 percent)	201,042
Number of secondary pupils	15,183,000
Number of secondary pupils with epilepsy (2 percent)	303,660
Number of secondary pupils with epilepsy requiring special education (30 percent)	91,098

Source: Extrapolated from Statistical Abstract of U.S. 1972, 102.

There is no standard method of determining whether a child requires attention in a specialized classroom, hospital or other institutional facility. One of the assumptions which can be utilized to arrive at approximate data regarding special education costs is the factor of extent of seizure control. While it is supposed that a child with controlled seizures would be integrated into the regular classroom setting at no additional cost to the school system, it is possible that the child with seizure control might be subject to emotional disorders and behavioral problems which so often accompany the affliction. These associative difficulties need not be byproducts of the affliction in a physiological sense; often societal attitudes and restraints are attributed with affecting personality development.

In Michigan, the Detroit School System established a special program for epileptic children in 1935. Data were reviewed for the 765 pupils who attended the special school from January 1935 to June 1947. This review indicated that a) most of the children with epilepsy may be educated in the schools normally provided in any community; b) approximately 10% of epileptic children may need some special consideration and services in school if they are to receive an education in accordance with their aptitudes; c) institutional or custodial care will be needed by some children with seizures but usually for those with mental and orthopedic defects rather than epilepsy; d) adequate medical services for diagnosis and treatment are prerequisites to educational services for epileptic children; e) all levels of intelligence are presented in a cross section of epileptic chilren; f) epilepsy may be expected to have some negative influence on the educational process of children but may be minimized by early medical care and appropriate educational services; g) a special program for the education of epileptic children is considerably more expensive than the education of normal children; and h) education of the public about epilepsy should be more vigorously promoted.[11]

"At one time children with epilepsy were excused from public schools; today's educators have recognized that all educable children, including those who have epilepsy, deserve a chance to learn. Each year more and more children with epilepsy are enrolled in public schools, and their teachers are learning that seizures, when they do occur, do not in any way impede learning ability."[12] This statement is an encouraging advance, despite a 1958–59 survey of one hundred and six cities representing 29.4 per cent of the total U.S. population and 28.4 per cent of the 5–17 year olds. At that time, twenty-two school system (22.4%) reported that they did not admit epileptics to public schools.[13] Although there is no uniform policy, Court rulings in Pennsylvania and the District of Columbia have upheld the right of handicapped children to public education.[14] Although there is no uniform policy, individual states are taking action to provide education for handicapped children. For example, Indiana recently passed a bill (HB 4156) which requires school districts to pay up to $2,000 tuition for a severely handicapped child to attend non-public or special classes.

With increasing enrollment of children with epilepsy in the public school systems, and considering the numbers of multi-handicapped children who experience seizures, it will be estimated that 30% of the children with epilepsy require special education.[15] Unfortunately there are no current figures on the cost of special education versus regular education. The cost estimates used in this report are the averages of expenditures for education in nine Pennsylvania counties in 1970, as reported by Maddock.[16] The average cost for a child in elementary school was $307.56 for regular classroom instruction and $615.48 for special education classes. The cost difference of educating an elementary child in a special classroom is $306.92 more than in a regular classroom. For secondary education students, the cost of regular classroom instruction was $412.26 as compared to $675.11 for special education classes. The cost differential for secondary education is $262.85 for special education.[17] Based on the need of 30% of the 670,130 elementary children who have epilepsy for services of specialized instruction, it can be determined that some 201,000 children cost the public school systems approximately $61,690,920.00 in *additional* expenditures annually. The 91,000 (approximate) secondary students educated in special classrooms tax the systems an estimated $23,919,350.00.

SUMMARY

Total number of children with epilepsy, 973,800.

Percent of epileptic children requiring special education, 35 percent.

Cost of special education for 201,000 elementary children with epilepsy, at the extra cost of $306.92 each, $61,690,920.00.

Cost of special education for 91,000 secondary students with epilepsy, at the extra cost of $262.85 each, $23,919,350.00.

Total annual cost, $85,610,270.00.

XIII. UNEMPLOYMENT WAGE AND HOUR LOSS

Schlesinger[18] and others have noted that the exact nature of the association between epilepsy and unemployment is difficult to ascertain, especially since epilepsy does not always interfere with vocational skills. Yet available data strongly indicate that many persons with epilepsy are unemployed.

Statistics vary as to the extent of this percentage; from 60 to 90 percent of persons with epilepsy have been estimated to realize their employment potential. The Epilepsy Foundation of America has determined that approximately 22% of the patients afflicted with the disorder are unemployed annually.[19] This is consistent with the view of the late Dr. William B. Lennox, who supported the estimate that 75% are able, public prejudice permitting, to live as well people do, except for certain safeguards and regular contact wth medical advisors.[20]

A number of factors can be identified that tend to place persons with epilepsy in the unemployed category. The major factor is the occurrence of epileptic seizures. Many employers feel that the possibility of seizures would be too disruptive to other workers. Other negative factors are listed below.

1. Epilepsy is a condition that does place barriers to employment by limiting a person's ability to function in some kinds of work as a result of seizures, physical and in-

Footnotes at end of article.

tellectual deficits, or effects of anticonvulsant medication.

2. Emotional problems are frequently noted by rehabilitation and employment workers as characteristic of unemployed persons with epilepsy. These personality characteristics have been assumed to result from attempts to cope with seizures, family experiences, peer rejection, employment rebuffs.

3. Inability of the person with epilepsy to obtain adequate education and training may result in deficiencies in skill and learned ability. Educational advancement may have been hampered by school policies or by the inability of educational diagnostic and remedial facilities to meet the specific problems of particular children.

4. Unemployment may also result from the prejudice, based partly on reality factors and partly on lack of proper information shown by employers, coworkers and company policies.

5. Services and programs for persons with epilepsy are generally acknowledged to be lagging behind the growth of programs for other disability groups.[21]

Table XIII–I provides an analysis of the American labor force. The total number of persons in the labor market is estimated using the percentage breakdown for each age group in the job market, and from this figure, it is projected that 1,793,057 people with epilepsy are in the employable ages between 15 and 65. The unemployment rate of people with epilepsy is rather high, about 22%. In 1972, an estimated 396,000 people with epilepsy were unemployed.

There is no data available as to what percent of this group is single or supports a family. If each unemployed person with epilepsy earned the average American single income of $4334.00,[22] $1,720,224,000.00 in wages were lost in 1972. The productivity loss to the nation remains incalculable.

TABLE XIII-1.—ANALYSIS OF LABOR POPULATION WITH EPILEPSY

Age group	1970 population [1] (in thousands)	Percent of population w/epilepsy (2 percent)	Percent of population in labor force [2]	Labor force w/epilepsy
15 to 19	19,285	385,700	50.1	192,850
29 to 24	17,176	343,520	70.4	240,394
25 to 34	25,278	505,560	70.3	353,892
35 to 44	23,088	461,760	73.4	337,085
45 to 54	23,222	464,440	73.2	379,041
55 to 64	18,590	371,800	61.6	230,516
Over 64	12,435	248,700	16.8	59,279
Total				1,793,057

[1] "Statistical Abstract of the United States," 1972, p. 31.
[2] Ibid., p. 217, average of male and female.

SUMMARY

Total number of persons of employable age afflicted with epilepsy, 1,793,057.

Percentage of persons unemployed who are epilepsy patients, 22 percent.

Total number of persons with epilepsy unemployed, 396,000.

Estimated income loss of families whose primary means of support is a person afflicted with epilepsy (annual for 1970), $1,720,224,000.00.

SUMMARY OF DATA

	Annual cost for epilepsy
Aid to the permanently and totally disabled	$70,266,690.00
Aid to the blind	420,423.20
Aid to families with dependent children	53,172,876.00
Vocational rehabilitation	9,648,134.00
Social security disability benefits	65,038,880.00
Crippled children's program	4,700,000.00
Medicaid	31,300,000.00
Medicare	125,300.00
Veterans' Administration	89,430,210.00
Special education	85,610,270.00
Institutionalization	231,649,000.00
Unemployment wage and hour loss	1,720,224,000.00
Private medical costs	1,879,945,000.00
Research	5,895,252.00
Total	4,247,426,035.20

SUMMARY

The estimated cost of the epilepsies, $4.25 billion, is an awesome figure. Fortunately, this tremendous cost need not continue or be increased. The main vehicles of change are rehabilitation and research.

Of the $4.25 billion total cost, $2.4 billion is directly expended for the maintenance and care of persons unable to meet their own needs through the present economic system. Employment in American life is the major common denominator for all people. One's job is a source of personal satisfactions—feelings of independence, self-expression, and accomplishment—and places one within the larger social order. A positive social value is given those who contribute to the economic system, while a negative value is given those who do not contribute to the system or subtract from it.

It has been estimated that for each $1.00 spent for rehabilitation, $8.00 is returned in increased lifetime earnings.[23] Obviously, the long-range returns greatly outweigh the immediate costs. Increased participation in the economic order would be paralleled by heightened personal satisfactions.

The other key area for reducing the cost of the epilepsies is research. Only $5 million was spent on research on the epilepsies in 1972, while $1.9 billion was expended for private medical costs. If more were known about the causes and nature of epilepsy and new, more effective anticonvulsant drugs developed, epilepsy would no longer possess its disabling qualities. Those with epilepsy would no longer be forced outside the economic order and dehumanized by strong social stigma.

Although not included as a cost in this report, the Epilepsy Foundation of America and affiliates expended $4 million in 1972 in its efforts to represent four million Americans with epilepsy. In addition to the money contributed by almost 966,000 people, many other thousands volunteered their time to provide services to people with epilepsy and to promote public education about epilepsy. These efforts to improve the lives of persons with epilepsy also serve to ultimately reduce the cost of epilepsy to the nation.

FOOTNOTES

[1] U.S. Congress, House, Commtitee on Labor, Subcommittee on Aid to Physically Handicapped, *Epilepsy*. 79th Congress, 1st Session, May 24–25, 1945.

[2] Ibid.

[3] *Neurological Disorders and Industry: Tapping a New Source of Manpower*, The National Epilepsy League (Chicago, 1955), 38.

[4] Ellen Winston and Catherine S. Chillman, "Epilepsy: Some Social, Psychological, Educational, Economic and Legal Aspects," *Welfare in Review*, 2, #2 (December, 1964), 1–9.

[5] *NINDS Research Profiles 1972*, DHEW Publication No. (NIH) 72–323. National Institutes of Health (Washington, 1972).

[6] Unpublished data from National Institute of Neurological Diseases and Stroke, National Institutes of Health.

[7] James J. Coatsworth and J. Kiffin Penry, "Clinical Efficacy and Use," 87–96 in Dixon Woodbury et al. (eds.). *Anti-Epileptic Drugs* (New York, Raven, 1972).

[8] Ibid.

[9] Winston and Chillman.

[10] Illinois State Department of Public Information.

[11] James J. Cereghino and Clifford H. Cole, *A Multidisciplinary Approach to Services for the Epileptic*. HSMHA Health Reports, Vol. 86. No. 4 (April 1971) 355–371.

[12] *Neurological Disorders and Industry*, 23–24.

[13] Cereghino and Cole.

[14] *Pennsylvania Association for Retarded Children, Nancy Beth Bowman, et al.* v. *Commonwealth of Pennsylvania, David H. Kurtzman et al*, 334 F. Suppl. 1257 (3-Judge Court, E. D. Pennsylvania, 1971); *Mills* v. *Board of Education of the District of Columbia*, Civil Action No. 1969071 (Decided by U.S. District Court Judge Joseph C. Waddy, August 1, 1972).

[15] A. D. Gregoriades, "A Medical and Social Survey of 231 Children with Seizures". *Epilepsia* 13: 13–20.

[16] Ernest Maddock. "Identification of Special Education Expenditure". *Training School Bulletin* 66 (1970): 137–162.

[17] Ibid.

[18] L. Schlesinger. "Epilepsy, Unemployment and Rehabilitation". *Rehabilitation Literature*. 27, #4, (April, 1966), 98–105.

[19] Estimates on unemployment for epileptics range from 12–15%, with most estimates being in the 20's. The estimate of 22% was taken as the median estimate.

[20] William Lennox, 1960.

[21] Ibid.

[22] Based on a 5% increase above 1971 average personal income of $4,138 listed in *Statistical Abstract of the United States 1972*, 319.

[23] Ronald W. Conley, "A Benefit-Cost Analysis of the Vocational Rehabilitation Program," *The Journal of Human Resources*, IV, 2, (1969) 226–252.

By Mr. ABOUREZK (for himself, Mr. MCGOVERN, Mr. YOUNG, Mr. MONDALE, Mr. HUMPHREY, Mr. HUGHES, Mr. MANSFIELD, Mr. METCALF, Mr. BAYH, and Mr. BURDICK):

S.J. Res. 174. A joint resolution to direct the Interstate Commerce Commission to provide an equitable formula for the distribution of grain cars. Referred to the Committee on Commerce.

Mr. ABOUREZK. Mr. President, the grain producing States of the Great Plains have been historically affected by shortages of grain cars at harvest time. In fact, the very first case to be held before the Interstate Commerce Commission—docket No. 1–1887—was a petition by farmers in the Dakota territory complaining of inadequate boxcar supply.

In recent years this problem has been getting worse, not better. The serious shortage of railroad freight cars for the movement of agricultural commodities now threatens severe hardships for both farmers and consumers.

The Senate has passed legislation that would seek to expand the supply of available grain cars. However, the sad fact is that no new equipment will be quickly available to deal with the situation as it now faces us.

This means that we must make sure that the equipment that we do have is utilized effectively and fairly.

That is the purpose of the resolution I am introducing.

It directs the ICC to investigate the grain car distribution practices by railroads and to make changes and adjustments in ICC rules to correct any defects that are found. It further directs the ICC to make sure that distribution practices are fair, reasonable, and nondiscriminatory.

As long as we are faced with a shortage of grain cars, we must make sure that those that are available are distributed fairly. Small elevators must be assured that they will receive a share of the available transportation.

I ask unanimous consent that the text of this resolution be printed in the RECORD at this point.

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

S.J. RES. 174

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas a serious shortage of railroad freight cars for the movement of agricultural commodities and food supplies is creating a year-round crisis for both farmers and consumers, and

Whereas agricultural producers are continually thwarted by inadequate supplies of boxcars, grain hoppers, and other types of equipment so that chaotic marketing conditions and increased costs of distribution are created, and

Whereas additional equipment to meet this shortage will not be quickly available so that more effective and equitable distribution of existing equipment must be implemented, and

Whereas the Interstate Commerce Commission has authority under Section 1(13) of the Interstate Commerce Act to require any or all railroads to file their rules and regulations with respect to car service and may direct that such rules and regulations shall be incorporated in their tariffs, and

Whereas under Section 1(14) of the Interstate Commerce Act the Interstate Commerce Commission may, after hearings, establish reasonable rules, regulations, and practices with respect to car service for application by the railroads: Now therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to assure a fair and equitable distribution of rail cars available for grain shipment, the Interstate Commerce Commission is directed to make an investigation of the grain car distribution practices by railroads subject to the Interstate Commerce Act in order to determine to what extent and in what manner existing practices may be unjust, unreasonable, discriminatory or unduly preferential; thereby imposing undue burdens or giving undue advantages as between the various grain shippers and localities and to make in accordance with the law such changes and adjustments of rules as may be found necessary to correct any defects so found to exist.

SEC. 2. In making any such changes or adjustments, the ICC shall give due consideration to the desirability as a means of removing undue prejudice or unjust discrimination of requiring carriers to provide specifically in their tariffs the terms under which, during any period of time when the supply of cars available for grain gathering does not equal the requirements, all shippers may demand and secure upon even terms the use of cars employed upon the lines of any railroad.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1414

At the request of Mr. CHILES, the Senator from New York (Mr. JAVITS), the Senator from Tennessee (Mr. BROCK), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of S. 1414, a bill to strengthen congressional control in determining the priorities of appropriations and expenditures by requiring the budget to be organized and submitted on the basis of national needs, agency programs, and program steps.

S. 1541

At the request of Mr. ERVIN, the Senator from Alabama (Mr. ALLEN), the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. JAVITS), and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of S. 1541, the Federal Act to Control Expenditures and Establish National Priorities.

S. 1604

At the request of Mr. BROCK, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1604, a bill to prevent discrimination on the basis of sex in housing, the Fair Housing Opportunity Act.

SENATE RESOLUTION 204—ORIGINAL RESOLUTION REPORTED—TO PAY A GRATUITY

(Placed on Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 204

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Emiko Kuraoka, widow of Matsuo Kuraoka, an employee of the Senate at the time of his death, a sum equal to eight and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 205—SUBMISSION OF A RESOLUTION DESIGNATING IN THE CAPITOL THE ALBEN W. BARKLEY ROOM

(Referred to the Committee on Rules and Administration.)

RECOGNITION OF ALBEN W. BARKLEY

Mr. MOSS. Mr. President, as a country we are often slow to acknowledge the work of the great leaders who have presided over the destiny of this Nation. By the time we give proper recognition, it is frequently the case that those who best knew the man to be honored, have passed away and cannot enjoy the act of memorializing the contribution of their friend.

I am today submitting a resolution to designate a specific physical memorial in remembrance of the accomplishments and contributions of the great majority leader of the Senate and Vice President of the United States, Alben W. Barkley. Few men can match his place in history, and none have surpassed his zest for life and his deep feeling for humanity. He served his country for 51 years in public, life, 44 of those in the Nation's Capital. His dedication took him through the position of judge, Member of the U.S. House of Representatives, Member of the U.S. Senate, and Vice President. He was a man of compassion, and vision. He always fought for progress, and one of his favorite comments was "We are not beginning a crusade. We are continuing a crusade." One of the old-fashioned orators, he was a master storyteller who could keep audiences spellbound. As an early advocate of the creation of the United Nations, and as a president of the American delegation to the Interparliamentary Union, he saw the need for an international perspective and the important role to be played by the United States in world affairs.

Alben was a firm-handed majority leader of the U.S. Senate, guiding many pieces of landmark legislation through the U.S. Congress on behalf of the President and the Nation.

He was a compassionate man. He quietly cared for his first wife as she became an invalid during the final years of her life, and did so with few knowing the sacrifice he made. He cheerfully crisscrossed the country giving speeches in evenings and on weekends to raise the money to pay her medical expenses. Few knew of the effort he was making in his personal life, while at the same time, fighting the daily struggle on the Senate floor to defend and implement President Roosevelt's programs.

And he never lost his vigor. He put meaning and importance into the office of the Vice Presidency. After 6 months in office he had traveled further and spoken more often than any other Vice President in history—and he did this at the age of 71. He seized the role as mediator between the Senate and President Truman, and devoted hours as the senior party diplomat to heal the wounds within his beloved Democratic Party.

Alben Barkley left this world while vigorously discussing the things he had fought for and believed in during a lifetime of service. To quote the Louisville Courier-Journal of May 2, 1956:

> A master story teller, an elder statesman, a political craftsman and the possessor of a quick and cheerful wit, Mr. Barkley was enjoying himself keynoting the mock Democratic Convention at Washington and Lee University. He told the students, "I'd rather be a servant in the house of the Lord than sit in the seat of the mighty," and collapsed and died. This is surely as he would have had it, for he left in the vigor of life, with no regrets.

Alben Barkley was a truly remarkable person, in many respects. He was a reformer, of the old Teddy Roosevelt-Woodrow Wilson school. Indeed, he once observed that Woodrow Wilson was the dominating intellectual influence of his life. And yet it can be said without fear of contradiction that no reformer in the history of Congress ever had so many friends in the ranks of the conservative. Because, when all was said and done, the kind of reform favored by Alben Barkley was generally satisfactory in the eyes of the conservatives. That is to say, he had a way of bridging the gap between the cautious people and the dreamers, and of proposing compromise satisfactory to the majority.

Born on a farm near the town of Lowes, in Graves County, Ky., in 1877, Alben Barkley grew to manhood in the midst of economic turmoil. The eldest of eight children, he was required to work in the tobacco fields on his father's farm, until the farm was lost in the national panic of 1893. Thereafter, he did odd jobs, obtaining a bachelor's degree with the as-

sistance of wages earned in the capacity of a janitor. Following graduation he secured a position as court reporter, at $50 a month, which alone provided the means of financing his studies at the University of Virginia Law School. In the year 1901 Alben Barkley was admitted to the bar of the State of Kentucky.

Four years later, in 1905, at the age of 28, Alben conducted a muleback campaign for the office of prosecuting attorney for McCracken County. He was elected, and by the time his 4-year term expired he was already well established as an outstanding spokesman of law and order. Elected in 1909 to the bench of the McCracken County Court, he once again had the opportunity to display his deep and abiding understanding of the law. In the congressional election campaign of 1912 he was nominated by his party to run for the office of Representative of the Kentucky First District, and in the subsequent canvass he was elected.

Alben entered the Halls of Congress on the same day as Sam Rayburn, and their careers were to be forever entwined. Entering Congress in 1913, under the first Wilson administration, Alben Barkley pitched right in, working in the interest of Wilsonian reforms. He worked for the passage of Wilson's Good Roads Act, and of the Farm Credit Act which created Federal land banks to relieve the plight of farmers. In 1920 he sought to put through the Railroad Act, which could not pass without Republican support. Already friendly with many Republican Members, Alben Barkley was in the forefront of political negotiations leading to the passage of the act. An ardent prohibitionist at the time, he favored adoption of the prohibition amendment and the Volstead Act.

Alben Barkley was on the way, and everybody knew it. He was brilliant, he was friendly, he was warm. He was also full of ideas and ambitious. Consequently, he had many friends who, by 1919, owed him many favors. In that year Alben was named chairman of the Kentucky Democratic Convention, and in 1920 he served as delegate at large to the Democratic National Convention at San Francisco, his first appearance on the countrywide political scene.

In 1923 he sought his party's nomination of Governor of Kentucky on a platform demanding a tonnage tax on coal and repeal of the State's parimutual betting law. For taking such a position, Barkley was fiercely opposed by the whisky, horse racing, and coal mining interests, all of whom centered their support on a rival nominee, and Barkley was defeated. This was, however, the only campaign he ever was to lose in Kentucky. Reversing his stand on the tonnage tax, he won the senatorial election in 1926, and took his seat the following year.

Reelected to the Senate in 1932, Barkley soon became a spokesman for the Roosevelt New Deal, and one of the ablest, beyond question. Not all of Alben Barkley's energy was directed to attacking the Republicans because the New Deal had enemies within the Democratic ranks as well. One of the loudest of the anti-New Deal Democrats was Senator Huey Long, the "Kingfish" of Louisiana—who was given to engaging in filibusters in the hope of breaking the force of the New Deal juggernaut. On one occasion, in the midst of a "Kingfish" filibuster of unusually great length, Long announced that he had done and said everything, and that he could think of nothing else to do. Senator Barkley intervened to ask: "Why don't you sing?" Long replied that if he did sing his voice would sound a great deal better than that of the Senator from Kentucky. Long, looking for a fight, invited Barkley into the midst of his filibuster, and Barkley obliged, delivering a furious defense of all the Roosevelt policies, from A to Z.

As a political act—a political performance—Barkley's joust with Senator Long was brilliant, for it transformed the critic of policy into the object of criticism, and the show stealer into somebody who had allowed his own scene to be stolen, right out from under his nose. After several battles of this kind, Senator Barkley became a favorite of President Roosevelt who, in 1937 helped his friend secure election as Senate majority leader.

Re-elected to the Senate in 1938, Barkley became, over the next few years, one of the chief sponsors of proposals bearing on national defense and war preparations. He guided the lend-lease bill through the Senate. He also worked to lessen the restrictions of the Neutrality Act, in the interest of embattled England.

Throughout the war years, Senator Barkley was an outstanding supporter of all administration policy decisions excepting only the Presidential veto of the tax bill of 1944. Angered by the veto, Senator Barkley resigned as majority leader. In a short time the rift between Barkley and Roosevelt was over, and Barkley returned to his leadership role. It was he, incidentally, who nominated Roosevelt for a fourth term at the Democratic National Convention of 1944. There are many who believe, however, that this one instance of political rebellion of Barkley's part cost him the Presidency. For at the 1944 National Convention he was passed over as a Vice-Presidential possibility, in favor of Harry S Truman, who subsequently replaced President Roosevelt in the White House.

In the postwar period, Senator Barkley continued his battling ways. In 1946 he fought against the end of wartime price controls, struggled fiercly in behalf of a proposal for the creation of a Federal Fair Employment Practices Commission; worked for an increase in the national minimum wage; and sponsored an antipoll tax cloture petition.

When the Republicans took control of the Senate in the 80th Congress, Senator Barkley assumed the role of minority leader, in which capacity he also excelled.

At the Democratic National Convention of 1948 Alben Barkley was nominated for Vice President on the same ticket with Harry Truman, and when the Democrats scored their surprise victory that year, he was one of the chief beneficiaries of the result.

As Vice President he served, of course, as President of the Senate, and no one in that position is remembered as having done a better job. His charm, his decorum, his legal mind, and knowledge of parliamentary forms rendered his magnificence in this role. It was then, as Vice President, that he became famous as the "Veep." It was also then that his charming romance began with the former Mrs. Carleton S. Hadley, whom he married in 1949, at the age of 72. Mrs. Barkley later set forth the delightful story of their "affair of the heart" in her bestselling book, "I married the Veep."

It was Alben Barkley's desire to run for President in 1952, but on this occasion he was opposed by certain leaders of organized labor. Nothing could have been more absurd, because Alben Barkley was a great friend of organized labor. At the last minute, when it was too late, picturesque old John L. Lewis of the United Mine Workers, came forward to praise Barkley and to castigate the labor spokesmen who turned their backs on him, in ignorance. But to no avail. Defeated in his bid for the highest post in the land, Alben Barkley returned to congressional combat, winning reelection in 1954 to the Senate, where he served until death, in 1956.

In the final stage of life, as always before, Alben Barkley remained the best of all possible people, in the personal sense, and a political force of great magnitude—a man to admire, whether or not you agreed with him.

Throughout the full course of his political career, no American political leader was more delightful, dramatic, entertaining, and magnificent than that great and good man from Kentucky: the late Alben W. Barkley, Congressman, U.S. Senator, Vice President, and Presidential aspirant extraordinare. There was a man who, regardless of political complexion, was worthy of attention, respect, friendship and honor; and these he received in plentitude from colleagues on both sides of the aisle, so long as he graced the halls of Congress with his presence.

I believe that it is important that we move at the earliest opportunity to establish a memorial for Alben W. Barkley to commemorate the contributions he has made to this Nation and the world. For that reason, I introduce and send to the desk a Senate resolution to designate room S-120 in the Senate wing of the U.S. Capitol Building, the Alben W. Barkley Room in permanent recognition of the leadership of this great man.

I ask unanimous consent that at this point Alben Barkley's biography from the National Cyclopaedia of American Biography be printed in the RECORD so that an official biography might be available to the Senate, together with the text of the resolution.

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

THE NATIONAL CYCLOPAEDIA OF AMERICAN BIOGRAPHY—BEING THE HISTORY OF THE UNITED STATES

Barkley, Alben William, Vice-President of the United Sates and senator, was born in Lowes, Ky., Nov. 24, 1877, son of John Wilson and Eliza Electra (Smith) Barkley. His father was a tobacco farmer. Alben W. Barkley worked in the tobacco fields while attending local district schools and also aided in supporting himself while attending Marvin College, Clinton, Ky., where he was graduated

A.B. in 1897. He then did a year of graduate work in liberal arts at Emory College (later Emory University) and returned to Marvin College to teach.

Soon, however, he abandoned teaching for the legal profession and for a time studied law at the University of Virginia and then in Paducah, Ky., with Charles W. Wheeler and John K. Hendrick, both congressmen, and William S. Bishop a judge. He was admitted to the Kentucky bar in 1901 and in that year began the practice of his profession in Paducah. Soon becoming a prominent member of the bar and noted for his talents in debate and oratory, in 1905 he was elected prosecuting attorney of McCracken County for a four-year term.

Following his tenure in this office he served as county judge until he was elected to the U.S. Congress in 1912. Entering the House of Representatives in the 63d Congress, he served in that body through the 69th Congress which adjourned in March, 1927.

As a congressman he was a staunch supporter of all measures of the administrations of Woodrow Wilson (q.v.), including the Federal Reserve Act, the Farm Loan Act, antitrust laws, and the laws proposed or enacted generally for the benefit of labor and agriculture as well as those for the encouragement of the commercial interests of the country.

In 1926 he was elected to the U.S. Senate from Kentucky for the term beginning March, 1927, and was re-elected for three succeeding terms, his last election being for the term ending in January, 1951, the 81st Congress.

Barkley was elected majority leader of the Senate in 1937 to succeed Joseph T. Robinson (q.v.) and served until Jan. 3, 1947, at which time he was elected minority leader.

Among his outstanding contributions during his terms as a senator was his aid in writing the 21st Amendment to the U.S. Constitution, the Prohibition Repeal Amendment, which passed into law in 1933. During his years of service in the Senate he served on its committees on foreign relations, banking and currency, finance, and interstate commerce.

He was one of the major spokesmen in Congress for New Deal policies of Franklin D. Roosevelt (q.v.), and before the entry of this country into the Second World War he supported Roosevelt's foreign policy, repeal of the Neutrality Act and the arms embargo, compulsory military training, and the extension of National Guard service outside of the United States.

He sponsored the Lend-Lease Bill in 1941, aided in defeating legislation that would have limited service in the Army under conscription to one additional year, and fought for passage of the bill to arm American ships, as well as supporting all legislation Roosevelt requested in connection with carrying out American war aims. Meanwhile, Barkley had become interested in Democratic Party politics, having been chairman of the 1919 and 1924 Kentucky State Democratic Conventions.

He was a delegate-at-large to the party's national conventions in San Francisco in 1920, New York city in 1924, Houston in 1928, Chicago in 1932, and Philadelphia in 1936, being temporary chairman of the last two.

In Chicago in 1940 he was permanent chairman of the Democratic National Convention and in 1944 placed before the convention the name of Franklin D. Roosevelt for his fourth nomination for the presidency.

Four years later in Philadelphia he was temporary chairman of the convention and made the keynote address, and here he was nominated as running mate with Harry S Truman (q.v.) in the successful Democratic campaign in that year. Alben W. Barkley was inaugurated Vice-President of the United States in January, 1949. In addition to his duties as Vice-President, he served as president of The Interparliamentary Union, a member of the board of regents of the Smithsonian Institution, and a member of the National Security Council.

Playing an active part in the Truman administration, he toured throughout the country making speeches on the vital issues facing the government.

Upon leaving the office of Vice-President he became commentator on a television program entitled "Meet the Veep," an allusion to the nickname by which he was known throughout the country, continuing thus from February to August, 1953.

In the following year he was again successful candidate for the U.S. Senate from Kentucky, and he was serving as a senator in the 84th Congress at the time of his death.

In his last term as senator he was reassigned to the committees on foreign relations and finance. His book, "That Reminds Me," was published in 1954. Barkley was awarded honorary LL.D degrees at the University of Louisville, University of Kentucky, Centre College, National University, Emory University, Kentucky Wesleyan College, Michigan State College, DePaul University, Westminster College and Rider College; honorary L.H.D. degrees at the University of Florida and The Dropsie College for Hebrew and Cognate Learning; and an honorary M.S. in Business Administration at Bryant College.

Among other citations he received the Collier's Award for Distinguished Congressional Service (1947), the Franklin D. Roosevelt Four Freedoms Award (1949), and the Algernon Sydney Sullivan Award by the University of Kentucky (1949).

He was a member of the American, Kentucky and McCracken County bar associations, Paducah Board of Trade, IOOF, BPOE, Woodmen of the World, Delta Tau Delta and Phi Alpha Delta, and he was an honorary member of Phi Beta Kappa. His religious affiliation was with the Methodist church. Barkley was a collector of antiques and a prolific reader in the fields of history and biography.

He was married twice: (1) in Tiptonville, Tenn., June 23, 1903, to Dorothy, daughter of Charles Brower of Paducah, a salesman, and had three children: David Murrell; Marian Frances, who married Max O'Rell Truitt; and Laura Louise, who married Douglas MacArthur II; his first wife died in 1947; (2) in St. Louis, Mo., Nov. 1949, to Jane (Rucker) Hadley, daughter of Roy Waller Rucker of Kansas City, Mo., a lawyer, and widow of Carleton Sturtevant Hadley. Alben W. Barkley died in Lexington, Va., Apr. 30, 1956.

S. RES. 205

Resolved, That the room located in the United States Capitol and designed as number S–120 is designated, and shall be known, as the "Alben W. Barkley Room".

SEC. 2. (a) Any rule, regulation, document, or record of the Senate, in which reference is made to the room referred to in the first section of this resolution, shall be held and considered to be a reference to the "Alben W. Barkley Room".

(b) The Committee on Rules and Administration shall place an appropriate marker or inscription at any suitable location with respect to such room to commemorate and designate such room as provided in this resolution. Expenses incurred under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

REVISED HOUSING ACT OF 1973—AMENDMENT

AMENDMENT NO. 696

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. HATHAWAY submitted an amendment intended to be proposed by him to the bill (S. 2182) to consolidate, simplify, and improve laws relative to housing and housing assistance, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 651

Mr. CRANSTON. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment that will be proposed to H.R. 11104; a bill to provide for a temporary increase of $13,000,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974: Senators EAGLETON, FULBRIGHT, HUMPHREY, and WILLIAMS.

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

Mr. CRANSTON. Mr. President, there is now a total of 31 sponsors of this amendment. I ask unanimous consent that the names of the 31 sponsors of the amendment appear in the RECORD at this point, with the names of the nine Senators who originally submitted the amendment appearing first.

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

Mr. Cranston	Mr. Chiles
Mr. Hart	Mr. Clark
Mr. Kennedy	Mr. Fulbright
Mr. Mathias	Mr. Gravel
Mr. Mondale	Mr. Hartke
Mr Schweiker	Mr. Hughes
Mr. Scott of Pennsylvania	Mr. Humphrey
	Mr. Jackson
Mr. Stafford	Mr. Javits
Mr. Stevenson	Mr. McGee
Mr. Mansfield	Mr. McIntyre
Mr. Young	Mr. Moss
Mr. Abourezk	Mr. Randolph
Mr. Bayh	Mr. Ribicoff
Mr. Biden	Mr. Tunney
Mr. Case	Mr. Williams

AMENDMENT NO. 656

At the request of Mr. HELMS, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of amendment No. 656 intended to be proposed to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

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:

Walter W. Burns, Jr., of Virginia, to Examiner-in-Chief of the U.S. Patent Office, vice Don D. Andrews, resigned

Roger L. Campbell, of Virginia, to be Examiner-in-Chief of the U.S. Patent Office, vice John Stevens Lieb, resigned

William H. Stafford, Jr., of Florida, to be U.S. attorney for the northern dis-

trict of Florida for the term of 4 years, reappointment.

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 Monday, November 26, 1973, 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.

NOTICE OF HEARING ON NO-FAULT INSURANCE BILL

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for December 4, 5, 6 and 12, 1973, at 10:30 a.m., in room 2228, Dirksen Office Building, on the bill S. 354, "National No-Fault Motor Vehicle Insurance Act."

This hearing will be before the full committee.

ANNOUNCEMENT OF HEARINGS BY THE SUBCOMMITTEE ON INTEGRATED OIL OPERATIONS

Mr. HASKELL. Mr. President, on November 28 and 29, 1973, The Special Subcommittee on Integrated Oil Operations of the Committee on Interior and Insular Affairs will hold open public hearings on competition in the petroleum industry. They will be convened in room 3110 of the Dirksen Senate Office Building at 10 a.m.

The principal issue for the November 28 hearing will be: Is the current energy crisis in some significant way at least partially attributable to a lack of adequate competitive performance in the petroleum industry? Witnesses expected to appear at this hearing are: The Honorable Rogers Morton, Secretary of the Interior; Mr. David Freeman, director of the Ford Foundation Energy Policy Project; Prof. John Blair, University of South Florida; Mr. Lee White, chairman of the Energy Policy Task Force, Consumer Federation of America; Prof. Alfred E. Kahn, Cornell University; and Mr. Rawleigh Warner, president of Mobil Oil and chairman of the board of the American Petroleum Institute.

The principal issue for the November 29 hearing will be: Has antitrust enforcement in the petroleum industry been adequate in the past, and is there a need for vigorous antitrust prosecution at the present time? Witnesses expected to appear at this hearing are: The Honorable John Love, Director of the Energy Policy Office; Attorneys General Killian of Connecticut and Shevin of Florida; Mr. James Halverson, Director of the Bureau of Competition, Federal Trade Commission; Mr. Mark Green, Corporate Accountability Research Group; Attorney General Thomas Kauper, Antitrust Division, U.S. Department of Justice; Dr. H. Michael Mann, Boston University; and Prof. Stephen Breyer, Harvard Law School.

Interested or affected parties desiring to file statements for the record are requested to transmit their submissions to the Interior Committee staff. Additional hearings by the special subcommittee will be announced in the future.

ADDITIONAL STATEMENTS

BRIEF FOR THE PRESIDENT

Mr. HUGH SCOTT. Mr. President, Friday's New York Times carried an eloquent and accurate accounting of the current state of the Presidency by Herb Klein, former White House Director of Communications. Mr. Klein has addressed himself most importantly to the questions of resignation and impeachment. I believe my colleagues will find this article enlightening and informative and I 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:

BRIEF FOR THE PRESIDENT

(By Herbert G. Klein)

LOS ANGELES.—When one looks at the public reports on the question of resignation, it would seem that the ayes have it. Yet, this is not borne out by most polls, and I frankly doubt if it reflects a cross section of opinion. Most newspapers which have urged resignation or impeachment report readers disagreed.

There is no question that public confidence in the Presidency—indeed the Government—has been badly shaken by an incredible series of events in recent weeks. But, when one reads some of the arguments for resignation or impeachment, the impression is that public confidence would suddenly be restored in Government if the President of the United States were removed from office.

There is nothing on record to support this thesis. Rather, there is more to support the opposite.

The removal of the President would hinder our international relationships and peace efforts. Inevitably, there would be new probes to test the strength of a new President. The personal relationships built by President Nixon with such leaders as Chou En-lai, Leonid Brezhnev and Mrs. Golda Meir would be shattered. It would mean stepping back two or three years at a time of critical problems and major opportunities.

Despite weeks of probing by prosecutors, grand juries and the varied legislative committees, no one has come up with solid evidence to contradict the President's most recent statement: "I have not violated the trust placed in me when they elected me as President of the United States."

I believe there are real doubts in the public mind, but the President deserves the opportunity he asked for to "do everything that I can to see that any doubts as to the integrity of the man who occupies the highest office in this land—to remove those doubts where they exist."

He is moving to do so.

Certainly the public is not going to stand for an impeachment effort based on partisan charges regarding the use of Presidential power, impoundment of funds, or the use of war power in Indochina. Impeachment will take solid negative Watergate evidence.

The issues are whether the President can be believed and whether he can effectively govern the nation. That he still is able to govern effectively today is most dramatically apparent in the Middle East.

In my opinion, he will continue to govern effectively unless the shouts of the critics finally produce a completely negative response to his achievements. But we do see this mounting negative campaign, some of it voiced by sincere, well-meaning critics, some vocalized by ideological opponents who smell fresh blood. The battle has shaped up to be one more of opinion than fact, but the critics have used the media effectively and the question is how long will the turmoil continue?

What is the record?

On the negative side, it is clear there has been deplorable and probably illegal abuse of power by some, and lack of candidness by the White House in handling the whole affair. One also can be rightly critical of some Presidential appointments.

On the other side, despite the pressures, the President has carried out his stated objectives, particularly in the foreign policy field where there is less dependence on Congressional support. His achievements, treading through the mine fields of diplomacy, have been unprecedented.

A year ago the American voters made a clear-cut decision on the Presidency, a decision based on issues, not personality. The President didn't win in a landslide because of his public smile or TV image, but because of policies where the differences were clear-cut. Unfortunately, the critics would like to ignore this.

Some are worried because the President showed hostility to the press at his news conference. I think that was a mistake, but, again, I think the hostility shown by the press was equally bad. The vendetta helps neither the Government nor the press. More so, it does not help the nation at this critical time. It is time for a truce.

The press corps, which conducted itself generally fairly with little partisan emotion in 1972 and 1968, suddenly is caught in an emotion-filled swirl of leaks, rumors and articulate Presidential critics. The balance in 1972 has not been apparent in 1973, and emotion too often clouds reporter judgment. The fault is not entirely press-manufactured. The Administration has not been fully forthcoming and some of the normal spokesmen have been hiding. The hate syndrome is there, too.

What is needed is more humility on both sides—Presidential and press. The street is not one way.

The final question pertinent to the debate is can the President stand the pressure?

Those who have been in personal contact with the President find him remarkably well, both physically and mentally. Like any man, he has his moods, but his strong mental discipline has stood up against critical battering before. Crisis is a part of life for him.

To those close to him he appears analytical, calm, and more than anything determined to overcome all odds in pursuit of what he believes is the national interest.

Those who agree that it is time to move ahead with the nation's business will find that neither resignation or impeachment will accomplish that.

KEEP UP THE SEARCH FOR OUR MIA'S

Mr. CHURCH. Mr. President, news stories have appeared in several newspapers around the country that the Department of Defense may decide to stop its search for Americans missing in action in Indochina because of difficulties encountered to date. If this collection of stories is accurate, then the Nixon administration is being derelict in its duty to continue doing everything possible—for as long as it takes—in tracking down and hopefully finding the whereabouts or remains of some 1,300 of our men who still remain unaccounted for.

I, for one, am dismayed. Although I opposed our war policy in Vietnam because I believed our Nation's security was not involved, I always supported our military men once ordered into battle.

I still support them, including those somewhere in the jungles of Laos, North Vietnam and South Vietnam, who remain unaccounted for. If the news stories are true, then I urge the Nixon administration to make an immediate about-face. I urge the Pentagon to say publicly, not only to the families of those still missing in action, but to the people as a whole, that we will continue our search for these Americans for as long as it takes. The families of those men still missing have endured untold anguish over recent years and they deserve nothing less than the most determined and sustained effort possible to account for all MIA's. "Keep up the search!" is an appropriate motto; efforts to find our 1,300 missing-in-action must go on.

I ask unanimous consent that three articles concerning the fate of our MIA's be printed in the RECORD.

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

[From the Baltimore Sun, Oct. 24, 1973]

HUNT FOR MISSING GI'S MAY HAVE TO END THIS YEAR

(By Arnold R. Isaacs)

NAKHON PHANOM, THAILAND.—Ground searches for missing Americans in Indochina may have to be suspended before the end of the year.

Because there has been no agreement between United States and Communist negotiators on procedures, American investigators are unable to carry out operations in North Vietnam, Laos, Cambodia or Communist-held portions of South Vietnam.

They can search only in government-held South Vietnamese territory, and there, American teams have nearly run through the whole list of possible investigations.

The teams have visited 21 aircraft-crash sites and 9 graves. According to Col. Vincent A. DiMauro, deputy commander of the Joint Casualty Resolution Center, there are only two more sites to be investigated, and both probably will be done in the dry months between now and the end of December.

SEARCH SITES LIMITED

This does not mean that all Americans missing in the South will then be accounted for, since a search can be carried out only where the location of a crash or a grave is fairly well pinpointed. Other sites may be found in the future if, for example, they are reported by local residents.

But if no new site information is developed and there is no negotiating breakthrough to permit searches in Communist-controlled areas, by the end of the year the casualty resolution field teams might have nothing to do.

The situation is deeply frustrating to many of the team members, who hoped and expected to help end the anguish for the families of the missing.

"I came here to run missions and I'm sorry I haven't run more," Capt. Paul W. Brown, of Cresaptown, Md., a Special Forces officer who commands one of the center's 11 five-member field teams, said. "It's a long time between missions—I ran one in July and did nothing but train until September."

The investigations involve two categories: about 1,300 Americans listed as missing in action and about 1,100 others known as "KIA-BNR" for "killed in action—body not recovered."

Only about 5 per cent of all the cases are in South Vietnamese territory that is accessible to the search teams.

CASE DATA COMPILED

The casualty resolution center has compiled all available information on each case and has made findings on some based not on ground searches but on analyses of other data, such as interviews with returned war prisoners.

There are a handful of cases in which men were believed at one time to be alive and in Communist hands but were not accounted for during the prisoner of war exchange after the cease-fire. Informed sources say, however, that the analyses carried out by the casualty center have produced no fresh evidence that any of the missing may be alive.

If ground searches are halted, the process of analyzing other information will continue.

So far, the center had made recommendations on about 150 cases, the majority based on indirect information rather than physical investigations.

The recommendations are forwarded to the Army, Navy, and Air Force secretaries, who are empowered to reclassify a missing-in-action serviceman as killed-in-action.

NEAR NORTH VIETNAM

About 150 persons are assigned directly to the Joint Casualty Resolution Center and another 70 work in the central identification laboratory at Samae San, near the Utapao Air Force Base south of Bangkok, Thailand. If the physical searches are halted, however, the casualty center strength may be reduced from 11 field teams to 4 or 5.

The casualty center operates at Nakhon Phanom Air Base in Northeast Thailand, the new U.S. headquarters in Southeast Asia. Lying on the Mekong River opposite Laos, it is only about 70 air miles from North Vietnam.

Colonel DiMauro and Captain Brown were interviewed not on the base which is closed to reporters except for rare group tours, but in the town. Across the river, the jagged mountains rising in the Laotian panhandle served as a vivid reminder that even if the diplomatic obstacles are overcome, the job of locating and identifying the remains of shotdown fliers will still be difficult and time consuming.

Captain Brown was the leader of the center's most successful search so far, which located a crashed American helicopter and recovered the remains of seven missing-in-action troops.

The mission illustrated the awesome difficulties of operating in the Indochinese hinterland. The site had been found by Montagnard hunters in thick jungle near the coastal city of Nha Trang, and reported first to Vietnamese authorities and then to American officials.

Captain Brown and his team flew over the area, then landed at the closest point where a helicopter could touch down. It took them 13 hours to march to the crash site, and two more days—while a tropical storm sent winds up to 80 knots—to cut away a big enough clearing for helicopters to hover overhead and winch down supplies and additional help.

"That canopy was so thick we couldn't even get a radio signal out to 30 miles away," Captain Brown recalled. When the laboratory specialists arrived, "everyone got down on their hands and knees with a light and a knife and we had to go over the ground inch by inch."

The wreckage was identified as that of an American helicopter that vanished in November 1969. It took nearly a week for the team to gather up the remains and ship them out to Samae San, and another month of laboratory work before positive identifications were made.

[From the New York Times Nov. 11, 1973]

PENTAGON MAY END SEARCH FOR MISSING IN INDOCHINA

WASHINGTON, November 10.—The search for Americans missing in Indochina is slowing, and Pentagon officials say it may be cut short in a few months.

There has been no decision to stop looking for the remains of 1,233 servicemen still carried as missing in the Indochina fighting, which officially ended in January. But elements contributing to doubts that more remains will be found and identified include an impasse in negotiations with the North Vietnamese and continued heavy fighting in South Vietnam and Cambodia.

So far Brig. Gen. Robert C. Kingston, chief of the Joint Casualty Resolution Center at Nakhon Phanom, Thailand, has located and positively identified the remains of nine missing men. The remains of six or seven others are undergoing laboratory examination.

ONLY IN UNCONTESTED AREAS

The 150-man staff has been limited to uncontested areas of South Vietnam, although the cease-fire agreement calls on South Vietnam, North Vietnam, Cambodia and Laos to exchange information about missing soldiers.

Pentagon officials report that only a handful of sites in uncontested territory remained to be explored in the two months before the rainy season begins. They are described as much less likely to yield remains than the 20 explored so far.

In other parts of South Vietnam, where there are 250 possible sites, any search must await the end of repeated cease-fire violations. Recent reports of heavy North Vietnamese troop build-ups and sharp fighting in the Central Highlands make the opening of new search areas unlikely for at least several months.

Last spring the Hanoi Government allowed the Four-Party Joint Military Commission, including American members, to view two cemeteries outside Hanoi where the North Vietnamese said about 50 American prisoners of war were buried. At one the North Vietnamese pointed to mounds and said they contained the ashes of prisoners.

Since that visit the North Vietnamese have declined numerous requests to turn over the remains in the two cemeteries. At twice-weekly meetings of the commission in Saigon, the North Vietnamese have turned aside requests from the Americans for discussion of the remains in the North Vietnamese cemeteries of access to possible sites of aircraft crashes.

In Laos, also the site of American aircraft losses, any search must await negotiations between the Pathet Lao and the Government in Vientiane. Indications are, Pentagon sources say, that any exchange of information, including the location of downed American pilots, is months away.

One ranking Pentagon official, discussing the chances of finding the remains of the missing men, said: "It becomes more remote as time goes on."

[From the Christian Science Monitor, Nov. 15, 1973]

TRIP TO LAOS PROVES FRUITLESS—RELATIVES HUNT MISSING U.S. GI'S

(By Diane Casselberry)

VIENTIANE, LAOS.—"MIAs—I want them accounted for" urged the bold red luggage stickers and lapel buttons of the 53 disembarking Americans.

Parents, wives, brothers, sisters, and children of U.S. service men reported missing in action (MIA) in Southeast Asia had flown halfway around the world for one purpose: to see a list of names of men who had died in captivity or were still held prisoner by opposing forces in Laos.

When it became apparent that the list, guaranteed in protocols for the new Laos coalition government, would not soon be made public, the families took to the dusty streets of Vientiane in search of information about their missing.

KNOCKING ON DOORS

They knocked on whitewashed embassy doors, and also made the rounds of rumor-filled sidewalk cafes. Some flew over rugged jungle terrain to look at reported crash sites,

while other jeeped into refugee villages to listen to often-conflicting stories of Caucasians sighted in isolated mountain areas.

Two parents flew to Udorn Air Force Base in nearby Thailand to see where their son had lived, and to talk to men who had flown with him.

The families left Laos at the end of their seven-day visa without the anticipated list of names, but with somewhat buoyed spirits.

"We realized before coming that there could be no assurance of success," said spokesman George L. Brooks. "Still, it was another step we could take to find out about our missing—and to keep the MIA issue before the public.

"We keep hearing that the war (in Southeast Asia) is over and that all our POWs are home," Mr. Brooks continued. "But that's not true. The war isn't over until all of the MIAs have been accounted for."

A LONG WAIT

Mr. Brooks and the other 3,100 members of the National League of Families of American Prisoners and Missing In Action in Southeast Asia have been waiting years—some for eight and nine years—for word of their missing.

During that time, they have confronted North Vietnamese representatives at the Paris peace talks, and met with national and state officials at home. They have marched in Washington, spoken at schools, written letters, and posted billboards—all in an effort to keep the MIA issue burning.

"I can't forget, nor can any of the other families," says Mr. Brooks, who is vice-chairman of the board of directors of the league. "But we're beginning to think that the [Nixon] administration isn't doing anything of substance to resolve the situation. And although I've always felt that we should keep the league a strictly family operation, divorced from government, I see now that it's hard to do so and get results."

PRESSURE TACTICS

Mrs. Earlyne Thompson, also on the board of directors, agrees with Mr. Brooks. "We've got to be more forceful as an organization, and show the government that we can control a sizable pressure group," she says.

Mr. Brooks sees the recent trip to Laos—the first officially organized, large-scale trip by league members to Southeast Asia—as a first step in a new, more vocal direction.

There will be more and bigger trips, he says, within six months. Many members have already indicated that they would again borrow money to pay the $2,000 round-trip cost.

OIL PROFITS NOT HIGH ENOUGH, BUT THEY MUST BE SPENT WISELY

Mr. FANNIN. Mr. President, I call my colleagues' attention to an editorial appearing in the November 12 Oil & Gas Journal. The article makes some points it would be well for us to consider.

A Chase Manhattan Bank study has revealed that in order to supply the country's future energy demands our Nation's oil industry must spend $600 billion between 1970 and 1985 on capital outlays and exploration. Such expenditures will require twice the income gains registered in the past decade—recently reported large industry profits are still not high enough to achieve those goals.

Second, the article emphasizes—as I have here on many occasions—the need for increasing the supply of energy, in this case through expanded investment. The warning that "oil companies can make higher profits palatable to the public and Government only as they translate them into investments that will produce more fuel" is entirely correct.

I see the industry as ready to meet this responsibility. I deeply regret that S. 2589 does not address itself to providing the incentives necessary to induce such additional energy supplies.

I ask unanimous consent that the article be printed in the RECORD.

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

OIL PROFITS NOT HIGH ENOUGH, BUT THEY MUST BE SPENT WISELY

Americans need to realize one fact about the substantial third-quarter profits being reported by the nation's oil companies. While the gains are significantly higher than a year ago, actual earnings are not high enough yet.

The profits still represent a growth rate and a return on investment below levels needed to generate funds for the tremendous expansions required to supply the country's future energy demand.

The average American, plagued by rising personal costs, is more apt to think current profits make oil companies the sleekest of the fat cats. Any idea that oil returns still are not high enough only evokes cynicism.

There's too little realization of how desperately the oil industry needs improved profits and needs them consistently over a long period of years. A financial study made by Chase Manhattan Bank leaves little doubt about the outlook. It calculates the industry should spend $600 billion between 1970 and 1985 in capital outlays and exploration. But to do so, income growth must be twice the the 8-percent-a-year gains made over the last 10 years.

This means that profit gains such as those being shown this year must become commonplace. And that's a tough assignment. Current profits stem from some unusual factors: A flat-out operating rate for all segments of the industry resulting in peak efficiency. A higher, more stable products market. And increased business abroad which when translated in devalued U.S. dollars may show illusory profit gains. In addition, the new Middle East oil squeeze will force the industry soon to start operating at below capacity with skyrocketing costs that will limit earnings.

Some observers fear the spending level charted by Chase Manhattan may be impossible to attain due to profit realities, competition from others for available capital, and shortages of equipment and supplies.

The improved profits, however, impose new obligations on the oil industry. It can't wait for ideal conditions. It must move now. And current profits should be sufficient incentive to encourage companies to step up capital spending significantly.

And at this point the industry should observe a caution: New spending must be carefully channeled into projects that will increase the nation's fuel supply. Intense exploration for new reserves. New recovery techniques. More refining capacity. Greater transportation facilities.

This single-minded attention to increasing supply has even penetrated governmental thinking. U.S. Treasury officials recently advised against huge investments in emergency standby storage. Instead, they urged the oil industry to concentrate its investments on increasing its supply potential.

More supply is the watchword. And oil companies can make higher profits palatable to the public and Government only as they translate them into investments that will produce more fuels.

COLLEGE OF THE ATLANTIC

Mr. MUSKIE. Mr. President, a recent issue of the Harvard Bulletin contained an interesting and informative article about the College of the Atlantic, a college of Human Ecology in Bar Harbor, Maine.

This young institution of higher learning, under the direction of Edward G. Kaelber, has taken a novel approach to liberal education. As the college's 1972 catalog described it:

A college of human ecology cannot be an isolated academic enclave; we hope to reduce the distinction between "college" and the "outside world" as much as possible. College of the Atlantic began as a community effort and will remain an integral part of the community within which it grew.

Mr. President, to share with my colleagues the hopes and goals of this experiment in education, I ask unanimous consent that the text of the Bulletin article be printed in the RECORD.

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

HOW TO START A COLLEGE WHOSE ULTIMATE GOAL IS TO RENDER ITSELF OBSOLETE

(By Samuel A. Eliot)

One afternoon in early April, 1969, I took a walk through Harvard Yard. There were dogs, and babies in perambulators, and people throwing frisbees. University Hall had been occupied since morning by an unlikely assortment of radicals, curiosity-seekers, and hangers-on. The Yard police were locking the gates as I headed for home, a graduate student in the 333rd year of Harvard's history, secure in the knowledge that nothing untoward would happen in the night. I was wrong.

Months later, on a September morning, I attended convocation ceremonies at Reed College. Reed was reputed to have the kind of flexibility and innovativeness that had emerged as ideals at Harvard, following the University Hall bust and subsequent strike. In fact, the president was alluding to that very flexibility (a myth, as it turned out) when he observed that at Reed one should expect the unexpected. Moments later he was struck by a pie thrown by one of four students carrying the NLF flag. That chilling symbolic assassination spoke more eloquently of where Reed really was than anything the president had said.

A year later, I was teaching English in a small private secondary school in Monterey. This school was truly innovative and flexible. I was encouraged to develop my own curriculum, and so I asked the junior class if they would like their English studies to have a central focus—the theme of the relationship between people and their environment. To put it another way, were they interested in combining English with the study of ecology? All but three said no.

By early 1971, then, after Harvard, Reed, and York School, I was pretty discouraged, partly by the aims and methods of higher education; partly by the increasing deterioration not only of the "environment," but of our ability to see ourselves as organic parts of a whole working system. At that point I was offered a job at College of the Atlantic, a nonexistent institution on Mt. Desert Island, Maine. I accepted.

College of the Atlantic can trace its beginnings back to 1947, when a disastrous fire destroyed many of the summer cottages in Bar Harbor, ending a way of life that many of the islanders had come to depend on. Over the next two decades, there were several attempts to start a school or college—regarded by many as a "non-polluting industry," and a much-needed economic boost. Others were attracted by the intellectual and cultural diversity a college would bring to the island's year-round population of 8,000. One such attempt, led by a Roman

Catholic priest and a Bar Harbor businessman, succeeded.

One of the future college's trustees, the Reverend Arthur C. McGiffert '13, proposed human econogy as the focus for the yet-to-be-devised curriculum, suggesting that the term be used in its broadest meaning: study of the different relationships between people and their environment. College of the Atalntic was incorporated in July 1969 as a private, coeducational college of human ecology. With some seed money, a focus, a 21-acre leased shorefront campus, and a vast amount of enthusiasm, the trustees began to do something that none of them had ever tried. In the fall of 1969, while I was being hastily disillusioned in Oregon, the board members began to make a college.

Edward G. Kaelber '48 began his duties as College of the Atlantic's first president the following January. A man who describes himself as fond of challenges, Kaelber had been a dean at Harvard's Graduate School of Education from 1960 to 1968, before taking on the development of a large secondary school in western Nigeria.

In Bar Harbor he found himself with a couple of drafty buildings, a secretary, a few inquiring letters (mostly of the "what the hell are you up to?" variety, including one such from me), and several pressing questions. Where's the money to come from? Who will teach here? What will they teach? What about students? What are the real goals and philosophy of the college? Why start a small private college when literally hundreds are folding each year? What the hell *are* you up to, anyway?

During the next eighteen months, Ed Kaelber looked for answers to these questions. He persuaded several prominent scientists and educators to join the board of trustees. Among them, from the Harvard School of Education, were Theodore Sizer Jr., Ph. D. '62, and Dana Cotton, Ed. M. '43, Melville Cote, a young doctoral candidate at the Ed School, was persuaded to provide help with student recruitment and general planning. That winter of 1970–71 was one of the longest and harshest in Maine history. After it was over, my wife and I headed east from California to see what was going on, to see if we could help. This story is about (some of) what we found, and what has happened since.

"Our purpose as an academic community will be to study the various relationships which exist between man and his environment, including both the natural world which supports his existence and the society and institutions which he created." From the 1971 Catalog.[1]

My wife and I had a chance for some first-hand study of "the various relationships" while we more or less camped out on the third floor of the college's main building. Most of the time, we were on the receiving end. As assistant to the president (read utility infielder), my academic/administrative responsibilities were supplemented by various chores of a housekeeping nature. The college's roof leaked—in my office, in Ed Kaelber's office, in the library (where part of the ceiling actually collapsed). In November, the boiler developed a penchant for midnight shutdowns. And with the onset of December's storms, the half-gone skylight in our bathroom provided us with ankle-deep ice water on more mornings than I care to remember.

And into the natural world which supports our existence (in this case, Frenchman's Bay), every flush of a college toilet deposited a burden of raw sewage. And still does. We haven't quite reconciled ourselves to the fact that Maine's college of human ecology is a polluter (and consumer) of natural resources. The best of intentions, and most ecological of attitudes, don't change the economic constraints that have thus far kept us from installing our own adequate sewage-treatment system.

"We are determined not to spawn another second-rate liberal arts college. We will make no compromise with quality." E. G. Kaelber, early in 1970, and many times thereafter.

"Quality" is a tough word. Most measurements of it are highly subjective. We had some interesting ideas about education, and some firm convictions about the types of people we needed. But to combine people with ideas, to create a college that is in fact of high quality, you need something more tangible than good intentions. Money.

Ed Kaelber is fond of saying, "The omens are good." He's been saying it for three years, with a regularity that's saved from being monotonous only because it seems to be truer with each utterance. At the beginning, in 1970, omens were about all he had to go on.

Despite the fact that Mount Desert Island is the summer home of some of the world's wealthiest people—with all its concomitant temptations to charge ahead saying "College of the Atlantic is the answer! Support us!"—Kaelber proceeded with caution. He describes early fund-raising efforts as "rifle shot, rather than shotgun." Instead of making a general appeal for funds, he identified people who might, by nature or inclination, be interested in supporting a college of human ecology. The fact that we're here today attests to his success, both in raising money and in persuading people with serious financial clout to join the board of trustees. With the exception of two grants (a planning grant from the National Endowment for the Humanities and a scholarship grant from the Jesse Smith Noyes Foundation), our support has come from private individuals and family foundations.

I'm told that when the decision to hire me was made in January 1971, a collection had to be taken in order to buy the postage stamp for my letter of appointment. I suspect (though I'm not positive) that this is apocryphal. In any case, since then we've raised close to $1.5 million. We may never be perfectly secure financially, but we're a lot less shaky than we were last year, and the omens are (forgive me, Ed) definitely good.

"We are looking for students who are prepared to benefit from the unique curriculum offered here. Maturity, self-direction, responsibility, imagination, and resilience are among the personal qualities we consider most important." 1971 student recruitment brochure.

Perhaps we should have said "most necessary," since we were inviting students to come to a college that would begin to exist only upon their arrival. Mel Cote and I visited dozens of schools during the fall of 1971. We wrote a catalog, complete with descriptions of projected course offerings, and designed a set of application forms. We made plans for a series of weekend applicant visits.

Early in 1972 the applications, and the applicants, began to arrive. We conducted individual interviews and informal get-togethers, and, weather permitting hiked around Acadia National Park. Of the 32 students who decided to join us (out of 40 we'd accepted from 85 applications), 29 had spent at least two days and nights at the college. They knew that "unique" actually meant that the 1972–73 curriculum hadn't been fully devised yet, and that they were to have an important role in its creation and development.

They came in September 1972—sixteen men, sixteen women (age range 16–25; fourteen of them with previous experience at places like Reed, Whitman, Denison, Williams, Amherst, Middlebury, and Yale. A few have left; most have stayed. The quotation from the 1972 catalog still holds, but now we *know* it's true. At a recent conference I was asked, "Besides academic ability and a commitment to ecology, what do you consider most important?"

My answer was "Guts."

"A college of human ecology cannot be an isolated academic enclave; we hope to reduce the distinction between "college" and the "outside world" as much as possible. College of the Atlantic began as a community effort and will remain an integral part of the community within which it grew." From the 1972 catalog.

Easier said than done. The "outside world," including Mt. Desert Island, was highly skeptical about the college's chances for success. After coming up with more than $50,000 in initial pledges, the islanders for the most part sat back with a wait-and-see attitude. The school had begun as a community effort, but it was rapidly being taken over by people from "away." When I joined in 1971, there were unfounded rumors about a Harvard Ed School plot. The real test of our 1971 rhetoric began when the school opened in September 1972. How would the town of Bar Harbor react to the presence of our 32 students? And how would the students feel about spending the winter in a small town that can fairly be called, November to April, isolated and remote? Today the college is a part of Bar Harbor (and Mt. Desert Island), not because of any administrative programs or "town-gown" strategy, but because the students have initiated and developed so many points of contact within the town that the distinction, though it inevitably remains, is truly blurred. Community service, environmental education programs in elementary schools, singing in the island's churches, sponsoring regional art exhibits . . . there is a steadily growing interface between college and community, not because we said there would be, but because the students and the townspeople made it so.

"Our curriculum is based on a conviction that bodies of knowledge are interdependent, and may in fact be regarded as a working system in which all parts complement and reinforce one another. There is no departmental structure, and people with different backgrounds, disciplines, and experience work together." 1972 catalog.

In the 1971 catalog we listed courses alphabetically, by title; now we list them according to the term in which they're offered. That's probably as far as we'll go, at least in the foreseeable future.

The college's curriculum was initially the responsibility of a trustees' curriculum committee, who recognized early on that they couldn't do much substantive planning without a faculty. So we appointed a faculty (five words to tell what took more than two years to do, appointing three men and a woman from a group of about 1,800 applicants),[2] and

[1] We've learned that at College of the Atlantic, one does not refer to "man" and "his" environment. One indirect outgrowth of our first catalog is the current development of a new vocabulary that deals with "people" and "humans" rather than "men."

[2] From the University of Chicago, where he had been an assistant professor of English for five years, came William Carpenter, Dartmouth '62, Ph. D. Minnesota '67. Daniel Kane, Yale '62, J.D. Harvard '66, had been a practicing lawyer in San Francisco, and a part-time teacher of environmental law at San Jose State. Steven Katona '65, Ph. D. '71, had been teaching at California Institute of the Arts. Linda Swartz, Vanderbilt '64, Ph. D. Texas '73, was completing her doctorate in anthropology at Texas.

Three more faculty members join us this summer. Richard Davis, Yale '62, Ph. D. Washington U. '71, has been teaching philosophy at Tennessee. Carl Ketchum, Bates '62, Ph. D. M.I.T. '68, has been teaching oceanography and mathematics at SUNY, Albany. Frederick Olday, Penn State '63, A.M. Harvard '65, Ph. D. U. Mass. '73, has been completing his doctorate in biology at Massachusetts.

the curriculum began to take shape in the spring of 1972: Literature and Ecology; Environmental Law; Cultural Ecology; Human Effects on Natural Systems.

We had to plan not only the courses themselves, but the interfaces between them; from the start, we wanted to explore the 'organic' connections linking the great whales. Thoreau, oil spills, and Buckminster Fuller. In most cases, courses were meant to complement other courses: Maine Coastal Culture and Open Space—Maine Coastal Architecture; Human Effects on Natural Systems—Government Regulation of HEONS. Later workshops, such as Native Americans: Philosophy, Culture, and Law, are team-taught and interdisciplinary within themselves.

To that beginning we've added visual arts, physics, philosophy, botany, math, and biochemistry. And the curriculum planning goes on, based on regular evaluations and assessments of what we need and what we're trying to do: develop a problem-oriented interdisciplinary curriculum in human ecology (for all practical purposes we've retained Reverend McGiffert's working definition). What follows are descriptions of three "learning experiences" that took place during 1972–73, reflecting faculty/student goals and aspirations, telling a little of what we know and showing how much more we have to learn.

Much as we would like to, we can no longer prepare students for life in "tomorrow's world." We can barely conceive of tomorrow's world. With the increasing pace of social and technological change, we can hope only to prepare students to recognize the nature of change and to acquire the skills and attitudes that will enable them to deal courageously and responsibly with the problems associated with change.

The Great Heath is a 5,720-acre sphagnum bog in Washington County, on the mainland, north of the college. It is, as the largest sphagnum moss bog in Maine, an ecologically unique area. Right beside it is Pleasant River, which supports one of the few remaining Atlantic salmon runs on the eastern seaboard. Late in our first term, most of the students spent a day on the Great Heath, led by two faculty members: environmental lawyer Daniel Kane, and biologist/ecologist Steven Katona.

Dan Kane, who was then teaching a course called Law, Government, and the Biosphere, and Steve Katona, whose Ecology of the Natural Systems was the college's one required course, had more in mind than a fine late-fall outing. Northeast Peat Moss, Inc. had filed an application with Maine's Land Use Regulation Commission to extract peat moss from the Great Heath. As a practical exercise in interdisciplinary problem-solving, the Great Heath seemed tailor-made; the good guys (the environmenatlly aware COA students) versus the bad guys (the peat-mining company, out to make a buck by destroying 1,500 acres of the heath). But it was by no means that simple.

On January 22, the commission and the Department of Environmental Protection held a joint hearing in Columbia, attended by local residents, representatives of the peat-mining company, and several righteous members of the college's environmental law class. Standing up to speak against the mining company's application, the students were shocked to discover that many of the residents of the area opposed not the mining company but the college. In an economically depressed area, "a traumatic incision and incursion upon the health' did not seem as important as the number of potential new jobs offered by Northeast Peat Moss, Inc.

I missed the hearing itself, but was on hand when some of the students returned, late at night, from Columbia. "How did it go?" I asked one of them. He paused, at a loss for words. "Was it a good hearing?" Craig, one of the eighteen students who came to us without previous college experience, said "Good? Christ, I don't know. It sure wasn't what we expected." Then, walking tiredly away, "But I guess it was one hell of a learning experience."

Subsequently, Dan Kane's law class submitted a twenty-item legal brief to the commission, strongly opposing the peat-mining application on legal, ecological, and aesthetic grounds. The brief was picked up and carried by the local newspapers, which also carried the early March news that the commission had in fact denied the application. And many of the reasons upon which the commission based its decision were taken directly from student testimony at the hearing, and the legal brief. The Bar Harbor Times editorial that week was headlined, "COA on the winning team."

A potential source of employment in Washington County has been blocked. The Great Heath, for the time being at least, is safe. It was an ecological victory, in which the commission agreed with the environmental law class that the uniqueness of the Great Heath outweighed the economic benefits to the area. Early on, we began establishing our credentials as an activist institution for "a bunch of damned troublemakers," depending on how you felt about it). We were instrumental in preserving Maine's largest sphagnum moss bog. But we also cost some people some jobs.

Craig was right. It was one hell of a learning experience.

An examination of ecological problems—the interrelationship of man and environment—has been chosen as the core of the curriculum not only because of the urgency of these problems (which makes them "relevant" in the narrow sense), but because their very complexities provide the means for developing habits of thought, action, and feeling necessary for coping with a changing world.

Steve Katona came to Bar Harbor from California about a year after I did. He's a biologist; I am, as they say, "in" literature. We hit it off, not only because the chemistry was good, but because we share a common interest: endangered species. So we decided to set up a workshop. (The primary objectives of the workshops are to work toward understanding the complexities of specific environmental problems; and to provide a medium for interaction and synergism between perspectives and disciplines), and called it "Humans and the Great Whales." At the beginning of the first term, twelve students signed on.

Things started off well. In mid-September, cruising on a Coast Guard tug, we encountered at least eight fifty-foot finback whales, feeding in leisurely circles around the ship, and the excitement of that afternoon seemed to promise that the workshop could be nothing less than an unqualified success. Back on land, we tackled such topics as cetacean evolution, biology and morphology; the history of whaling; whales in mythology, folklore, and art. We read Moby Dick, and had a special screening of the film, at which we served grog. We began to realize how very little is really known or understood about the marine mammals we were studying.

By midwinter we were in a semi-crisis state. Seven students had left the workshop. We'd been back on land too long. Steve and I, the originators of the workshop, tried to inject some life into it by assigning some readings, and were politely but firmly reminded that, as all participants in a workshop are equal, we were in no position to tell anyone to do anything. The future of "Humans and the Great Whales" looked grim. We understood the complexities, we had the interaction, but we weren't getting anywhere.

At about that time, when we needed it most, we found a handle. The International Whaling Commission, the regulatory body for world-wide commercial whaling had at its 1972 meeting defeated a proposal for a 10-year moratorium on all commercial whaling, despite the fact that several of its member nations had supported such a proposal at the U.N. Environmental Conference in Stockholm. Why? Although IWC regulations prohibit the taking of several endangered species, such as blues, humpbacks, and Pacific grays, a moratorium seems in order if only because we know so little about the creatures (beings?) we're slaughtering. We made an attempt to persuade all the IWC member nations to support the moratorium at the June 1973 meeting. It was another learning experience. We got into economics, law, politics, and international relations. And we were advised that, should the IWC vote in favor of a moratorium, two member nations (Japan and Russia, the two countries that do most of the world's commercial whaling) would probably drop out, freeing themselves from any regulations on either numbers or species of catch.

Meanwhile, with the cooperation of the Coast Guard, we began setting up a regional whale watch, using the Mount Desert Rock light station as a base of operations for monitoring the migratory and feeding habits of any cetaceans that might pass within 21 miles of Mount Desert Island during the summer. We started hunting up photographic and acoustical equipment, and commenced the search for a vessel suitable for taking our research even further out of the classroom than Mount Desert Rock. (Secondary objectives include group organization, the establishment of priorities for gathering and analyzing data, and the development of skills of communication and advocacy.)

Subsequent personal encounters with cetaceans have not been wholly satisfactory. One morning in late March, Steve left for Ohio. That afternoon I flew to Washington. That evening a ten-foot pilot whale stranded itself and died (or was killed) on tidal flats not far from the college. One workshop member was on the Olympic peninsula, another was in Austria. Those remaining did a partial dissection, and brought back samples for lab study. Then in April, Steve spent three weeks in Alaska with a team of scientists, studying the spring migration of the nearly-extinct bowhead whale. "Belugas, blizzards, and birds," Steve said upon his return. "The expedition was a great success. But I personally didn't see one single damn bowhead."

And that's how things have been going in the whole workshop.

Problems in human ecology require perspectives difficult to acquire within the confines of traditional academic and professional specialization. Parts need to be continually related to wholes. Analysis and synthesis become alternating emphases in a single continuing learning experience. The aim of this kind of education is not the acquisition of a particular body of knowledge by itself, but—as Alfred North Whitehead expressed it—"the acquisition of the art of utilization of knowledge."

Initial plans for the college called for an eventual enrollment of 600, and it seemed clear (to most of us, anyway) that our present location is too small to accommodate that many people without resorting to high-rise buildings and parking garages. Through late 1975 we have a lease on 21 acres of shore-front property, formerly the Oblate Seminary, and before that one of Bar Harbor's most sumptuous summer cottages. The one huge building houses all our classrooms, offices, labs, library, dining facilities, and so on. The grounds are strikingly beautiful, and the soil (as the abundance of riches from my quarter-acre garden can attest) is black, rich, and fertile.

No matter. In the fall of 1971, still proceeding on the 600-student track, we decided to

purchase sixty acres atop Strawberry Hill just south of town, and about two miles from the college. Swept by the 1947 fire, the hill is mostly rock ledge and blueberry patches, with a couple of crumbling foundations and a lot of young birch trees. A donation of twenty adjoining acres gave us eighty acres to work with, two hilltops and the saddle between, commanding a superb view of Frenchman's Bay and the mountains of Acadia National Park. The new campus came with a couple of serious built-in flaws. First, as a tax-exempt, nonprofit organization, we were removing eighty acres from the town's tax base. Second, the technical and logistical problems of sewage and utilities were, to most of us, mind-boggling.

We obtained the services of an architect to devise an initial master plan for the campus. Edward Larrabee Barnes '38, M.Arch. '42 is a summer resident of Somesville, a few miles from Bar Harbor, and his convictions, from the beginning, matched ours. Not only must we avoid wreaking ecological havoc on Strawberry Hill, but we must create a campus that is aesthetically pleasing from within, from the top of Cadillac Mountain, and from the waters of Frenchman's Bay. Also it must be functional, non-polluting, easily accessible (the hill is quite steep), and energy-conserving. And economical, both to build and to maintain.

Early in 1973, in a prime example of spontaneous generation, the Strawberry Hill Workshop came into being, composed of a disparate group of students and teachers who wanted to make sure that the campus master plan was a true reflection of the college's aims and ideals. (We consider workshops to be the core of the curriculum: they are interdisciplinary, problem-oriented, and designed to minimize the traditional student-teacher roles.) In many ways, the Strawberry Hill Workshop itself reflected not only our aims and ideals, but the confusion and frustration that come from tackling a large problem head-on. Perhaps more than any other single course or workshop, it demonstrated why we don't have requirements at the college. In confronting a problem (in this case, the creation of an eighty-acre college campus on a granite fire-scarred hilltop), students soon discover what we meant in the catalog when we said "complexities." If a student learns statistics, it's because the problem can't be solved without statistics, not because someone said, "Learn statistics!"

The Woodshop's central focus was Barnes' master plan, with special emphasis on interior design, environmental impact, and alternative energy sources. The preliminary master plan was modified, after submission of a twelve-page workshop "findings sheet," to include at least two windmills, less parking space, and more cohesion between academic-administrative-living areas. Undoubtedly there will be more findings and more modifications. We want to be able to say of our campus, when it's finished, that it embodies the philosophy and goals of our college. Thanks to Barnes and the Strawberry Hill Workshop, it appears that we will be able to say it, and mean it.

It's 1973, and we're still working on answers for many of 1970's questions. Perhaps we'll find the answers. Perhaps College of the Atlantic will make a significant contribution to higher education, or to the restoration of ecological balance, or both. In a sense, our ultimate goal is to render ourselves obsolete; ideally, "environmental education" will begin in infancy, and the need for a college of Human Ecology will cease to exist. In the meantime, however, we are concerned with survival, with the survival of the species, and the planet, and with the survival of intellectual curiosity, those "habits of thought and feeling necessary for coping with a changing world."

I tried out that bit of rhetoric (it's honest, it's sincere, but it *is* rhetoric) on a recent environmental conference, and was immediately hit with the question "But what will your students *do* when they graduate, and what will they have gained that they couldn't have gained somewhere else?" The first part of my answer was—and still has to be—"we don't know yet." We haven't any graduates. We can guess, having been told that job employment in a broad field labeled "environmental protection" will quadruple between now and 1980, what there will be for many of our graduates. Also, as we expand our curriculum and develop resource-sharing ties,[3] we expect our students to meet the entrance requirements of most graduate schools in the country. Our confidence is apparently shared by the Maine state legislature, which has given us the legal authority to grant degrees, by the regional accrediting agency and by the U.S. Office of Education.

The second part of the answer has to do with what's different about the college. ("Different" doesn't mean "better," but "better" often means "different.") Mostly, that's what this story is about. Mel Cote says there hasn't been a new idea since the Greeks. We're trying new combinations of old methods, building on the mistakes and successes of other educational innovators. We have the advantage of starting from scratch, with no establishment to fight and no existing structures to struggle within. Our college community is governed by a system of committees on which students are equal members. During the third term, faculty meetings were chaired by a student. We have a working responsibility/accountability system. Beyond that, the traditional administrator-faculty-student distinctions are breaking down, and the results of that breakdown are not chaos and anarchy but openness, communication, and increasing willingness to accept responsibility not only for one's own actions, but for the continued growth and well-being of the college.

I'm still asked, in Bar Harbor, Boston, St. Louis, and Santa Barbara, just what the hell I'm up to. Me, personally? Despite the nice-sounding title, I'm still what I was originally hired to be: utility infielder. What that means, in effect, is doing whatever needs to be done. I do some administrating; I do some teaching. Sometimes I go for long walks in the woods and mountains of Acadia; summers I tend my garden. It's an idyllic life. I've developed a duodenal ulcer.

Charles W. Eliot, president of Harvard from 1869 to 1909, was one of the first people to build a summer home at Northeast Harbor. He loved Mount Desert Island, and helped create what became Acadia National Park. Early in the 1900's, he led an unsuccessful attempt to ban all automobile traffic from the island. Today, on this glacier-riven piece of granite and spruce, there are about 8,000 year-round inhabitants. In the summers, across that bridge, in their campers and trailers, and Winnebagos, come 2.5 million people. The big money now is in land speculation and motels; the summer air is filled with the cries of herring gulls and the smell of automobile exhaust.

Eliot was right. I can't help thinking that he would approve of what we're trying to do here. He had, and we share, a commitment to higher education and a concern for the environment. If College of the Atlantic succeeds, it will be because of that commitment and that concern. We don't have all the answers. But we are learning what some of the important questions are, and how to ask them.

[3] We currently have affiliations with Habitat, in Belmont, Mass.; the University of Maine at Orono; and San Jose (California) State College.

A RETURN TO PHASE ZERO

Mr. BROCK. Mr. President, again we find ourselves in a situation of a worsening economy. Inflation is growing, and there appears to be no end in sight.

Repeatedly, I have called for a return to phase zero. We must realize that controls, any controls, on the marketplace, simply have an adverse effect.

If we are to throttle this cancerous inflation, we must allow the marketplace to respond with greater supply, and not continue to place depressive impediments upon it.

Perhaps we should take time to look back over the past months and be shocked into the reality of what has happened. Each time a phase has been implemented, exactly the opposite of what was intended has occurred.

And still, prices continue to rise, and the controls record continues to worsen. Why not? It was predictable when men decided they could substitute their judgment for that of the marketplace.

Recently, the Wall Street Journal published an excellent editorial on the dismal record of those controls, and I would ask unanimous consent that this article be printed in the RECORD.

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

[From the Wall Street Journal, Oct. 10, 1973]

Since the imposition of controls, inflation has turned not better but worse.

The six-month moving average of the consumer price index turned down in early 1970, and continued down until controls were imposed in August 1971. It turned back up in mid-1972, in the midst of "tough" Phase 2 controls. Since then it has ascended to heights far above those reached in any recent non-controls atmosphere. Little wonder that the U.S. Chamber of Commerce and the National Association of Manufacturers have—somewhat belatedly it seems to us—joined the AFL-CIO in calling for prompt and complete termination of controls.

Purely on the basis of the record, one would have to conclude that far from extinguishing inflation, price controls fuel it. That conclusion is overly simple, of course, because since mid-1972 many other powerful inflationary pressures have been at work. The money supply has been expanding rapidly, 7.4% between the fourth quarters of 1971 and 1972. The government budget has been in deficit, and economic growth has been straining the economy's capacity.

"Even at that, though, the inflation has been more rapid than any usual economic view would predict. In trying to explain it, economists are looking toward international economic developments. Perhaps the impact of the dollar's devaluation was more inflationary than most theories predict. Or perhaps as First National City Bank and Argus Research Corp. argue attempts by European central banks to maintain fixed exchange rates by buying dollars swelled European banking reserves and money supplies, leading to a worldwide inflation that spills back into the U.S. economy.

"Price controls presumably were intended to stop the increase in prices in the face of these powerful domestic and international forces. This was a pipe dream, as nearly everyone now recognizes. We would go a bit further, to argue that in a couple of respects controls did indeed cause higher prices.

"For one thing, there is the effect on the psychology of the Federal Reserve Board. Even those skeptical about the real effect of controls—and it is by no means clear that this description applies to everyone at the Fed—would probably feel some influence from the announcement that some other part of government was going to take over the inflation problem. So if there had been no con-

trols the money supply probably would not have expanded as rapidly, and prices would not have risen quite so sharply.

"Beyond that is the problem of shortages. The diehard supporters of controls ignore this problem when they contend that their policies have not failed but were never tried. It is of course quite true that the biggest price jumps have occurred during the more relaxed phases of the controls program. Usually these apologists blame the relaxation on George Shultz' association with the University of Chicago, but those who look not at personalities but events will find the following cycle:

"Tight controls are imposed. Shortages and dislocations start to develop. Because of the shortages and dislocations, controls have to be relaxed. Then you get all the price increases you would have had during the tight-controls period, plus those caused by the controls-induced shortages, and probably some more by businesses trying to get ahead of the next period of tight controls.

"No group of controllers will be able to avoid this cycle, for none of them can possibly be smart enough to foresee the secondary and tertiary effects of their actions, especially in an increasingly integrated global economy. They learn too late that if they fiddle with gasoline prices and supplies they may end up with a fuel oil shortage. After setting U.S. prices for fertilizer or cotton they suddenly learn that world prices are higher and foreigners are buying so much of the supply there isn't enough left for Americans. And if they achieve really efficient enforcement with an army of bureaucrats, they will drive down investment and plant expansion and end up with shortages of everything.

"So we very much doubt that the dismal record of controls have much to do with any particular set of men or philosophy of controls. The problem is something far more basic, the limits of human intelligence. And the sooner we recognize that controls are doomed by facts of simply physiology the sooner we will be able to start rebuilding a healthy economy."

WRINKLES, BIRTHDAYS, AND OTHER FABLES

Mr. CHURCH. Mr. President, community-supported, public television is performing many worthwhile services for our Nation.

One recent production of special interest to me, as chairman of the Senate Special Committee on Aging, was an hour-long special called "Wrinkles, Birthdays, and Other Fables."

Comedian Flip Wilson served as host in an entertainment format which—while enjoyable—nevertheless managed to provide a great deal of useful information about the 21 million Americans who are so often called senior citizens.

Produced by public television station KCET in Los Angeles, the special was shown on public service stations throughout the Nation. On many stations, a local public discussion show followed. It was my pleasure, for example, to participate in a follow-up panel which discussed issues in Idaho.

Together, the Flip Wilson special and the discussion provided a major contribution to more widespread understanding of what aging means, not only to those now old, but to everyone who will become old over the next few decades.

The Flip Wilson segment, in fact, was designated by its producers and writers to appeal to those persons in the 35- to 55-year-old age range. One purpose was to reach people who want to forget that they, too, are approaching the so-called "golden years."

Through light sketches, commentary, and musical numbers, the cast exploded myths and stereotypes associated with age and growing old. PBS has performed a very useful service by reminding all of us that aging is everybody's business, and community-supported television again deserves our thanks.

DEATH OF HOWARD P. JONES

Mr. BROCK. Mr. President, last month, a distinguished public servant of this country passed away. He was Howard P. Jones, who held a number of important positions in many levels of government, but is best remembered for his memorable tenure as Ambassador to Indonesia from 1958 to 1965.

When Secretary of State John Foster Dulles spoke at Jones' swearing-in ceremony for that job, he warned the new Ambassador that he was taking on a tough assignment, one that would require "a great effort of statesmanship."

Jones proved equal to the task, and it is in no small measure due to his effective diplomacy that relations between the two nations have shown marked improvement since 1958.

Indonesia was in a virtual state of civil war in 1958. Communist influence within the country was growing and there were conflicts between Indonesia and the Netherlands that might have escalated into open warfare, particularly over the West Irian question.

To the task of improving things, Jones brought great good humor, boundless energy and a considerable skill at diplomacy. Convinced that America and Indonesia were, in his words, "bound together by belief in God, love of liberty and respect for the rights of the individual," he worked tirelessly and creatively to create a stable relationship between the two.

Ambassador Jones' early career was in journalism. After graduation from Columbia University, he worked for the United Press, and then became editor of the Evansville Press, and later became a partner in a chain of nine small newspapers in Michigan.

His interest in matters of public policy led him to return to school, where he studied public administration, public finance and public law, subsequently being named public relations secretary for the National Municipal League, and later becoming that organization's executive director.

He sought elective office only once, losing a bid for a seat in the New York General Assembly, which campaign, however, brought him to the attention of Gov. Herbert Lehman, who appointed him to the State civil service commission.

He had a distinguished career in the Army during World War II, completing service as a colonel attached to General Eisenhower's Supreme Headquarters staff. Following the war, he played a key role in German rehabilitation before joining the Foreign Service in 1948.

He served in Berlin, Taipei, and Jakarta before being recalled, in 1955, to Washington to take the post of Deputy Assistant Secretary of State for Far Eastern Economic Affairs, the post he held until being named Ambassador to Indonesia.

His distinguished public career thus spanned three decades, and every American can be proud of the quality of the service he rendered.

Saddened now by his death at the age of 74, a grateful Nation owes his memory the respect due a diplomat of the first rank and a public servant of immense ability and integrity.

I ask unanimous consent that the attached biography and article by Jean Hailey be printed in the RECORD.

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

HOWARD P. JONES, AMBASSADOR TO INDONESIA IN 1958–65, DIES

(By Jean R. Hailey)

Howard P. Jones, 74, U.S. ambassador to Indonesia from 1958 to 1965, died Tuesday at his home in Atherton, Calif.

Mr. Jones had served as this country's envoy to Indonesia during troubled times that saw a steady downward trend in U.S.-Indonesian relations despite his close personal relationship with President Sukarno.

He retired from his post and the U.S. Foreign Service in 1965 to become chancellor of the East-West Center at the University of Hawaii.

Later he served as chairman of the board of trustees of the Christian Science Publishing Society, which publishes the Christian Science Monitor.

At the time of his death, Mr. Jones was a senior research fellow at Stanford University's Hoover Institution on War, Revolution and Peace.

When he was named ambassador to Indonesia in 1958, Mr. Jones was warned by the late Secretary of State John Foster Dulles that he was stepping into a "tough spot" because a revolt was in progress in Indonesia.

That country was battling with the Netherlands over the ownership of West New Guinea. The Communists in Jakarta were challenging the Indonesian government and the United States was being accused of meddling in Indonesian affairs.

At the same time, this country was criticized as being too cool to the government of Sukarno. With the appointment of Mr. Jones, this government's policy changed.

Mr. Jones was an outgoing person who worked hard but believed in "soft-sell" diplomacy. As he tackled his task with vigor, participating in Indonesian song and folk dances, he became a popular figure in that country to all but the Communists.

"When Howard Jones became ambassador to Jakarta, the United States didn't have much of a policy—except for the Jones smile and the Jones personality," was once said of him.

Gradually the United States replaced its policy of coolness to one of friendliness and cautious support of the Indonesian Army against growing Communist strength.

Despite Mr. Jones' ever optimistic view that the ties between his country and Indonesia would continue to improve, and despite his frequent meetings with President Sukarno both on a diplomatic and social basis, relations worsened.

United States Information Service libraries in Indonesia were sacked. At one point, 500 students stormed through the ambassador's home, smashing furniture and setting fires. At the time, Mr. Jones and his family were on vacation at a resort outside Jakarta.

Apologies from Indonesian officials, including Sukarno, were profuse. Mr. Jones ac-

cepted them and continued to carry on his own type of diplomacy.

Even at the time of his retirement in 1965, he expressed confidence that relations between the two countries would improve. In a farewell statement, he said both countries "should be able to disagree without dislodging the basic foundation of understanding between us."

Mr. Jones had begun his career as a journalist. Born in Chicago, he studied at the University of Wisconsin and received a bachelor's degree from Columbia University.

He worked for the old United Press, edited a newspaper in Evansville, Ind., and then taught journalism at the University of Michigan. He also was a professor at the Columbia University School of Journalism.

In 1939, Mr. Jones was appointed to the New York State Civil Service Commission. Later he became a deputy state comptroller.

During World War II, he served overseas in the U.S. Army and in 1947 went to Berlin to take charge of economic affairs for the United States High Commission.

In 1948, Mr. Jones joined the Foreign Service as first secretary in Berlin. He was assigned to Taipei as counselor of the U.S. Embassy in 1951 and received the State Department's Meritorious Service Award.

Mr. Jones was named director of the Foreign Operations Mission in Indonesia in 1954 and a year later was appointed deputy assistant secretary of state for Far Eastern affairs, the position he held at the time he was named an ambassador.

He is survived by his wife, Mary, of Atherton, and two granddaughters.

Jones, Howard P(alfrey), Jan. 2, 1899—United States Ambassador to Indonesia.

Address: b. United States Embassy, Djakarta, Indonesia; h. 6629 Elgin Lane, Bethesda 14, Md.

A diplomat in the true sense of the term, the United States Ambassador to the Republic of Indonesia, Howard P. Jones, can claim much credit for the atmosphere of mutual trust that prevails between Indonesia and the United States. A former journalist and university professor, Jones joined the United States Foreign Service in 1948, and he played an important role in rehabilitating postwar Germany. Transferred to the Far East in 1952, he served in Formosa and Indonesia, then was recalled to Washington to become Deputy Assistant Secretary of State for Far Eastern economic affairs. His appointment to succeed John M. Allison as Ambassador to Indonesia in early 1958 came at a time when relations between Indonesia and the United States threatened to become strained. In the spring of 1962 Jones helped to bring about a settlement of the Dutch-Indonesian dispute over Western New Guinea. A year later he took part in negotiations involving the eventual nationalization of foreign oil companies by the Indonesian government.

Howard Palfrey Jones was born on January 2, 1899 in Chicago to William Cadwallader and Ida May (Noble) Jones. Early in life he decided upon a career in journalism. After graduating from high school, he attended the University of Wisconsin from 1917 to 1920 and then went on to Columbia University, which granted him the Litt.B. degree in 1921. Jones began his career with the New York bureau of the United Press and soon became known as a "boy wonder" of the newspaper world. At the age of twenty-four he was managing editor of a Scripps-Howard newspaper, the Evansville, Indiana, *Press*, and within a few years he became editor-in-chief and a partner in a chain of nine small newspapers in Michigan.

Although Jones had no intention of leaving newspaper work, his interest in the problems of local government led him to return to school and undertake graduate studies in public finance, public administration, and public law. He attended the University of Michigan from 1925 until 1927 and Columbia University in 1929 and 1930. During this period he also taught journalism at both universities. In 1929 Jones obtained a job as public relations secretary with the National Municipal League, a research and educational organization in New York City concerned with problems of state and local government. From 1933 to 1939 he served as executive director of the league and as editor of its organ, the *National Municipal Review*.

In addition to his work with the National Municipal League, Jones was a consultant to the Virginia Commission on County Government in 1931 and a delegate representing the United States Department of State at the International Union of Cities at Lyons, France in 1934. In the latter year he obtained a fellowship from the Oberlaender Trust of the Carl Schurz Memorial Foundation to study public administration in Germany. From 1933 to 1940 he was a member of the governing board of the United States Public Administration Service, and from 1936 to 1938 he was director of research for the New York State Commission on Revision of Tax Laws, which was engaged in an overhaul of the state's tax structure. He also served as a consultant to the Governor's Commission on the New York State Constitutional Convention of 1938.

Having decided to become active in politics, in 1938 Jones ran for the state assembly seat in Rockland County, New York, on the Republican ticket. Although he lost the election, he won the respect of New York Governor Herbert H. Lehman, who in 1939 appointed him to the Civil Service Commission to help develop an expanded state civil service program. Jones remained a commissioner until 1943, when Governor Thomas E. Dewey appointed him deputy comptroller of the state of New York.

A member of the United States Army from 1943 to 1947, Jones served as a major, and later as a colonel, with the staff of the Supreme Headquarters, Allied Expeditionary Forces, under General Dwight D. Eisenhower. He served with the Ninth Army during its advance into Germany and took part in the mission that helped to re-establish the Belgian government after the German occupation. After the war Jones played a key role in German rehabilitation. He helped to set up the German Ministry of Finance, the Bank for Reconstruction, and other financial agencies. In 1948 he joined the United States Foreign Service, and from 1949 to 1951 he was deputy director of the Berlin office of the United States High Commissioner for Germany and Berlin representative of the Economic Co-operation Administration's special mission to Germany. In July 1951 he became director of the Berlin element of the United States High Commissioner's office. For his important role in helping to revive the economy of West Berlin after the Russian blockade in 1948–49, Jones received the State Department's Meritorious Service Award in 1952.

In 1952 the State Department reassigned Jones from Germany to the Far East. His first post was in Taipei, Formosa as counselor of embassy and deputy chief of mission. Two years later, in 1954, he became director of the United States Operations Mission to the Republic of Indonesia in Djakarta, with responsibility for implementing the American program of technical co-operation and economic assistance.

Recalled to Washington in 1955, Jones was appointed Deputy Assistant Secretary of State for Far Eastern economic affairs, and in this position he kept up his friendships with President Sukarno and other Indonesian officials. An advocate of the policy of keeping Asia free for Asians, Jones urged more United States technical assistance and the investment of private capital in countries like Indonesia, as an antidote to Communism. In 1955 Jones was a member of the United States delegation to the Colombo Plan conference at Singapore, and in 1956 he was chairman of the United States delegation to the United Nations Economic Commission for Asia and the Far East, at Bangalore, India.

In December 1957 Jones had been named to succeed Karl L. Rankin as United States Ambassador to Nationalist China, but owing to a last-minute change in administration plans he was appointed in January 1958 as Ambassador to Indonesia, succeeding John M. Allison. Reportedy Allison disagreed with State Department policy toward that country. The change in plans was believed to have resulted from the critical situation in Indonesia following the seizure of a number of Dutch companies, and the challenge of the central government in Djakarta by an anti-Communist rebel group in Central Sumatra. Although United States policy toward Indonesia had been officially neutral, State Department spokesmen had on occasion criticized Sukarno's policy of "guided democracy" and Communist influences in the Indonesian government. These comments, in turn, led Indonesians to charge the United States with interference in Indonesian affairs.

When Jones was sworn in as Ambassador to Indonesia on February 21, 1958, Secretary of State John Foster Dulles warned him that he was taking on a tough assignment and one that required "a great effort of statesmanship." On March 10, 1958 Jones presented his credentials to Sukarno, who asked for a greater understanding of his country's problems by the United States. In his speech Jones declared that the two countries were bound together by "belief in God, love of liberty, and respect for the rights of the individual."

Shortly after Jones arrived in Indonesia, fighting resumed between government forces and the rebels on the island of Sumatra, on which are located the multimillion-dollar oil fields of the California-Texas Oil Company and of other American concerns. The rebels asserted their independence from the central government after their demands for greater local autonomy, economic freedom, and the elimination of Communist influences from the government had been ignored. Jones's statement, after his arrival, that the United States had no intention of interfering in Indonesian internal affairs, was viewed as a clear refutation of charges that the United States was supporting the rebels. When an American flyer in the service of the rebels was captured by government forces a few months later, Jones officially expressed regret "that a private American citizen has been involved as a paid soldier of fortune serving with the rebel forces."

After the victory of the central government over the rebels, military leaders took advantage of their increased power and prestige by ordering an end to anti-American demonstrations. The United States reciprocated by starting a program of military and economic aid to Indonesia as a countermeasure to aid from the Soviet Union. Early in 1959 Jones informed Indonesian Foreign Minister Subandrio that $10,000,000 in military aid had been approved by the Eisenhower administration. The move was hailed as proof of United States confidence in Indonesia and paved the way for increased mutual trust between the two nations.

Meanwhile, friction between Indonesia and the Netherlands was mounting over the disputed territory of West Irian (the Indonesian name for the western half of the island of New Guinea). By late 1961 the prospect of war between the two countries was imminent, for President Sukarno threatened the use of force, if necessary, to win the territory from the Dutch. Using his "softsell" diplomacy, Jones played a key role in persuading the countries to negotiate. In the process he aroused the indignation of the

Dutch for reportedly having shouted the word "merdeka" (freedom) at an Indonesian rally. (He later explained that the word was used by Indonesians as a greeting, with no political implications.) In May 1962 a peaceful solution was reached through the United Nations, whereby Indonesia would eventually take over the territory after a temporary U.N. administration.

Following the settlement of the West Irian problem, Jones presented the Indonesia government with a plan devised by an economic survey team for the growth and development of Indonesia. The plan, involving aid of between $325,000,000 and $390,000,000, included provisions for education and training, transportation expansion, machinery replacement, replenishment of vital material imports, acceleration of rubber and tin production, improvements in the production and distribution of food, improved electric power distribution, and surveys of natural resources. In May 1963 Jones took part in negotiations leading to an agreement between the Indonesian government and foreign oil companies under which the facilities of the companies are to be nationalized within fifteen years, with due compensation to the owners.

Howard P. Jones was married to Mary Rendall on October 22, 1921. The couple had one daughter, Patricia Ann, who is deceased. Their two granddaughters are living in Indonesia. An informal and friendly man, Jones is easily persuaded to entertain at social functions. He has been called "Smiling Jones" by the Indonesian leftist press.

THE STEPS WE NEED TO TAKE NOW TO MEET THE ENERGY CRISIS—TESTIMONY OF S. DAVID FREEMAN BEFORE THE JOINT ECONOMIC COMMITTEE

Mr. PROXMIRE. Mr. President, today the Joint Economic Committee's Subcommittee on Consumer Economics, chaired by the distinguished Senator from Minnesota (Mr. HUMPHREY), heard a series of witnesses on the energy crisis and what we should do about it.

S. David Freeman is director of the Energy Policy Project for the Ford Foundation.

Mr. Freeman called for mandatory action by the State and Federal Government. Voluntary actions are not enough.

He called for rationing of gasoline, just as soon as the coupons can be printed.

He told us that if we do not act now we will have a crisis early in the year whether the Arab boycott continues or not.

And he also spelled out ways by which we could meet our energy shortage without violating the consumer protection measures for clean air and clean water and without making the consumer pay through the nose for the inactions of others.

Mr. Freeman's case was extraordinarily well reasoned and persuasive.

I ask unanimous consent that this very excellent testimony be printed in the RECORD. I commend it to Senators and to the public.

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

STATEMENT OF S. DAVID FREEMAN

Mr. Chairman and members of the committee: I was pleased to accept your invitation because I think it vital that everyone acquainted with the energy situation do everything they can to make energy conservation a quick reality in this country. We need to enlist the support and participation of the American people and we need action by all levels of government to develop an energy conservation ethic in this country.

Mr. Chairman, the views I express this morning are strictly personal and are not presented on behalf of the Ford Foundation's Energy Policy Project which I am directing. That particular study of national energy policy is one we hope to complete in the coming year. My views today reflect my own involvement with energy policy over the last decade, first at the Federal Power Commission, later as an energy policy official in the Executive Office of the President and more recently as an interested citizen. I hope they will be of some value to the Committee.

The crisis that is upon us need not paralyze the nation or cause widespread hardship. Ironically, the fact that we waste so much energy in driving cars and overheating buildings makes it easier to weather this crisis. Japan and Western Europe for example use more of their crude oil for industrial purposes than we do. If the United States can quickly make the necessary readjustments in our wasteful patterns of consumption there need not be any serious dislocation in the American economy. The adjustments could in time even lead to a pace and quality of life that in many ways could be superior to the big car, glass house, suburban sprawl, energy and pollution intensive ways of life that we have built for ourselves in recent decades. But the worst mistake we could make would be to fail to face up to the very real shortages that exist.

The shortage of fuel we face this year, next year and for the foreseeable future is not going to be filled by just giving lip service to conservation and trying to continue business as usual in our traveling, heating, and industrial consumption habits. It is going to require mandatory actions by state and federal governments to assure that everyone does their part to make conservation happen. Without effective action now, including some form of rationing, the energy shortages could trigger a domino effect throughout the economy that could move this country into a recession or even a depression. Of course, we are in a very real sense guessing at what might happen. The federal government has detailed contingency plans for going to war but no such plans for this energy crisis that has been developing for many years.

For several years many of us have been calling attention to the fact that America has been a society of energy gluttons. Now that it has become imperative to go on an energy diet it is most important that the diet be effective and that the measures taken provide the greatest savings with the least disruption. Perhaps most important of all is to be sure that our efforts are not just a one shot proposition. We need to shift to a more efficient pattern of growth so that conservation becomes an integral part of the design for America's future, a future that can be better and more satisfying than the recent past. But first we must cope with the existing emergency.

The nation's energy budget is badly in the red. The available supply of oil is going to be somewhere between 10 to 25 percent short of the potential demand in the months ahead if we continue a business as usual pattern of consumption. There is no way to close that kind of gap by increasing supply as long as the Arab boycott continues.

It is important to understand that the United States has no stockpiles, little or no excess production capacity and only one defense department reserve that could, if produced, add some 150,000 barrels/day as compared to a potential shortage of 2 to 4 million barrels of oil a day. And there is not much "dirty" energy readily available to fill the gap either. Peeling off the layers of environmental protection isn't going to help much in keeping us warm and could really hurt in keeping us well in the years to come. The only answer is to cut back on energy consumption at once and by everyone, or many people and businesses will run out altogether, because we cannot burn what we do not have.

I have great faith in the ability and willingness of the American people to respond to the situation that we now face provided their leaders take decisive action that requires everyone to share in the inconvenience. Some people will turn down their thermostats and stop joyriding voluntarily but there are too many questions in the minds of people about whether the crisis is real, whether everyone is sharing equally and about which measures are really effective and which are not, to expect the degree of conservation required from a voluntary program.

The danger increases each day we continue heating buildings, driving cars and operating industrial establishments as though the shortage did not exist. Actions are needed immediately . . . not in January or February. It is a matter of simple arithmetic that the longer we delay beginning a program of rationing in one way or another the greater the risk of shortages that will cause unemployment, as well as seriously disrupting the lives of our citizens.

As we consider which actions to take it is important to distinguish between measures that will reduce demand and really help right away from those measures taken in the name of the energy crisis that will do little or no good now and could cause great harm in the future.

We dare not enact a national energy policy to shape America's future in an atmosphere of fear and near panic. If we don't stop to think there is the danger of approving any action that promises more energy in the future without weighing the cost to the consumer or the environment. A national energy policy must find a way to implement our environmental goals, not abandon them. Such a policy should protect the consumer against windfall profits, and not make soaking the consumer somehow seem like a virtue. We must be sure that consumer protection and environmental protection do not become the first victims of the energy crunch.

No one, least of all myself, would question the need to develop a coherent line of policy to balance our energy budget in the years ahead. My plea is that we do so with an understanding that the nation must reconcile a number of very basic yet conflicting values, and that we are still very low in the learning curve of just how to do so.

If we face the reality that some array of governmental mandatory actions are needed to cope with the immediate emergency there are three categories to consider:

(1) Requiring specific actions or inactions, designed to save lots of energy at minimum inconvenience. For example, it could be required by law that thermostats in commercial and industrial buildings be set at 68°.

(2) Rationing available supplies to the ultimate consumer, leaving the choice to each citizen or business as to how to balance his energy budget.

(3) Increasing prices (through taxes) to the level at which the higher prices would cause people to cut back on consumption enough to balance with the supply.

It seems to me that an optimum program of action could well draw on all three categories of action. The most pressing need is to take action—including rationing—to reduce demand immediately. No one looks forward to rationing with any glee or enthusiasm but we must understand that the issue is not whether to ration or not; it is a question of whether the government will ration or whether the rationing will be left up to the oil companies. In ordinary circumstances the market place does the job better. But

with a shortage of heating oil and gasoline that could be as high as 20 to 25 percent of potential demand, we would be taking a tremendous gamble with the welfare of the people and the economy if we permitted nature to take its course.

As I shall explain in a moment I believe there is a role that market forces can play to help ration gasoline and other scarce fuels. But the idea of just letting the oil companies charge what the traffic might bear in a period of acute shortage would result in a multi-billion dollar windfall. The price increases won't even help cure the immediate cause of the shortage, since making the oil companies super-rich isn't likely to persuade the Arabs to stop the boycott.

The higher prices of 20 to 30 cents per gallon would, of course, price gasoline out of reach for many trips and thus reduce demand. But in the sad state of public transportation in this country there are certain minimum needs for gasoline that simply can't be cut out—needs like getting to work. The working poor would thus be hurt badly by a purely market oriented solution. And the oil companies—who must share the blame with government for our energy unpreparedness—would profit handsomely on the adversity of the nation.

Raising the price of gasoline by imposing a large new federal tax of say 30 cents a gallon is certainly a better idea than permitting the oil companies to pocket such huge sums. And it would no doubt cut out lots of driving. But a pure tax approach would still soak the working poor and consumer generally who must use gasoline for getting to work, shopping, and other essentials.

A purely market-oriented approach with a price increase large enough to eliminate the shortage this year therefore is a cruel idea for almost everyone but rich people and the oil companies.

At the other extreme is to consider rationing as requiring a detailed comprehensive system which attempts to identify the needs of every class of retail consumer, divide the available supply equitably among them, and provide appeal boards for hardship cases. Such a system in a peacetime economy would require a government bureaucracy that is not yet organized. They would need to make a lot of tough decisions on where joyriding stopped and where necessary travel began. By the time it got organized and working we would most likely have run completely out of gas.

There is no really good way to ration but in the circumstances there is no alternative. And the country really can't afford a long debate over how to do it. The greatest danger by far is to drift ahead hoping that the problem will somehow go away.

I happen to think that a basic rationing system for gasoline could be quickly implemented. In the interests of facilitating public discussion I'd like to outline an approach that would not involve a complicated bureaucracy and would call on market forces for help without placing a burden on the consumer. I offer these personal thoughts knowing they are incomplete and could be improved with the hope that they might spur quick action by the federal government.

Gasoline could be rationed by estimating the assured supply from domestic production and imports that we know will continue and issuing free coupons to each licensed car owner for an equal share of most of what would be available. This basic ration would amount to about 10 gallons per car per week if the Arab boycott continues. These coupons should be made freely negotiable to encourage car owners to pool their coupons and form car pools or drive less and sell them to people who need or want more gas.

In addition, a small fraction of the coupons would be sold by the government each month on a first come, first served basis, at say 30 cents a gallon, with the price and number of coupons available adjusted each month in light of supply and demand. An alternative to the government selling ration tickets would be to impose a tax of say 30 cents per gallon, while also issuing coupons as described above and providing that the coupons would entitle the holder to gasoline without paying the extra tax.

The government would, in effect, be using the market place instead of appeal boards to allocate a small portion of the gas. The money from the sales of these coupons or the tax should be used to buy new buses and otherwise improve public transportation systems. Service stations would be able to obtain replacement gasoline only in an exchange for the coupons they collected from their customers. An integral part of any such rationing plan would be to impose price controls on the scare energy that would ensure that the energy companies do not reap windfall profits.

The reasons for earmarking some of the gasoline for a market determined allocation is that in a peace-time economy it would be hard for a rationing board to decide on who should get a priority. Furthermore, it is important for customers to think in terms of gasoline being worth, say 30 cents a gallon more, and making their decisions accordingly. Otherwise the pressure on the rationing system will be great and the danger of black-market operations that much greater.

Mr. Chairman, I present these thoughts, not as a definitive plan, but as a basis for proceeding at once. If hardships or inequities result, exceptions could be added. But in the current circumstances the longer we delay the tougher and more complicated the job will become.

It is important that we also give high priority to measures that will save energy, not only this year, but every year in the future. Actions in this category would include:

(1) Federal low-cost loan programs or tax incentives to facilitate more insulation, storm windows, and other investments in existing buildings to save energy automatically each year.

(2) Large-scale federal support for public mass transportation. On the average in the city you can get where you're going on a bus with one-third the fuel required than if you drive your car.

(3) Federal funding for the construction of bicycle paths on an urgent basis. There were more bicycles than cars sold in the U.S. last year and people will ride them much more if they can do so without the danger of injury and pollution on the city streets.

(4) Taxes or performance standards that would result in new cars being built that have much better mileage. More cars that get 20 miles per gallon rather than 10 can be built in the coming year and a family car that does 35 miles per gallon is entirely feasible in the future.

(5) Enactment of a stiff tax on the use of scare natural gas and oil as fuel by industrial plants. This would encourage greater efficiency and switching to domestic coal in the years to come.

There is not time to discuss all the energy conservation actions that could be initiated. Most of the discussion has centered on houses, office buildings and transportation. But industry can save energy too without cutting down on industrial production if they have sufficient time and incentive to adjust. We must distinguish between a sudden unexpected shortage which could cause unemployment from a future in which industry can adjust to the fact that energy is a scarcer and more expensive item. In the current emergency keeping production and employment going should have a very high priority—wearing a sweater at home cannot be compared with the loss of a paycheck. But in the future, industry can expand and employment grow with a slower rate of growth in energy consumption than in the past.

Mr. Chairman, the word crisis in the Chinese language consists of two symbols, one meaning danger, the other opportunity. We know the danger but there is also a great opportunity. The coming months can be a time when America looks in the mirror and sees what a mess it has made of its cities, and how we have permitted the surrounding countryside to be covered by unplanned circles of growth.

We have created an America in which people live and work in buildings constructed and operated with no concern for saving energy: an America where people on the average live further and further away from their work and spend more and more time in cars that get fewer and fewer miles per gallon; an America where industrial establishments have paid no more attention to the efficiency with which they use energy than the average household. There is little doubt that we have created the most wasteful society on earth in the use of energy and material resources. With 6% of the world's population we consume 35% of the world energy. Our appetite for energy has grown much faster than our ability to produce, extending our energy lifeline half way around the world to the large oil wells in the Middle East.

In a way this nation is very fortunate that the boycott has occurred now. For what it does do is telescope the future and show us that the path along which we were sliding is a dead-end. Even if the Arab-Israeli dispute did not exist, it is not in the cards for America to continue a gluttonous way of life in a world where most of the people live in a perpetual energy blackout.

We are witnessing the end of an era. As much as we hate to face up to it the joy ride is really over. But that does not mean that we are on the road to a Spartan life, nor does it mean that we cannot in the coming years develop transportation systems, cities and indeed life styles that are superior to what we must leave behind. To fashion a new America will involve a whole lot more than an energy policy. But since energy is the life blood of modern society it might provide the focal point.

If we could develop an energy conservation ethic it could lead us to solutions to a great many of the ills that beset America today. Modern mass transportations, new cities, either within existing communities or elsewhere, and planned growth in knowledge-intensive industries, are all needed to meet basic needs of society as well as to balance the nation's energy budget. Growth in these areas that have suffered from too little growth in the past could reshape the GNP in a way that could provide more of the goods and services that America really needs and cut out much of the wasteful use of energy that is a root cause of our current problem.

If the current crisis could wake us up to the need for embarking on a sounder and saner pattern of growth it could turn out to be the luckiest thing that could ever happen to us.

Mr. Chairman, in conclusion it is important that we do not permit the current crisis to give conservation a false blackeye. We are in trouble because we were trying to consume too much, not too little. The Arab boycott may be the proximate cause but if there is hardship and unemployment it has its roots in a decade of government policy which encouraged the energy companies to push their products with green stamps and promotional rates. Rationing is a by-product of the policy of promotion and the failure to take actions that can save energy, save money, save the environment, and improve the quality of our lives in the process. The answer to this winter's problem is not to give up on the future but rather move to a pattern of growth and sources of supply more in keeping with a durable society on a planet of limited resources.

MINORITY SMALL BUSINESS ENTERPRISE

Mr. JAVITS. Mr. President, much has been said about the role our minority citizens are beginning to play in our Nation's economy. We are beginning to appreciate that the talent and opportunities within the minority community are as varied as the communities themselves. Frequently the Government has played the precedent setting role in aiding minority entrepreneurs to begin to enter the mainstream of our economy.

Mr. President, I ask unanimous consent to have printed in the RECORD a press release I received from Afro-American Service, Inc., a minority owned firm in the food services industry which not only continues to have great success in serving the U.S. Merchant Marine Academy but in addition and due in part to the opportunity to prove their skills provided by the food service contract with the Government has recently become one of, if not the first, black-owned firm to acquire a food service contract with a major airline.

On November 15 Afro-American Services, as an expression of the Academy's gratitude, arranged for a special banquet at the Merchant Marine Academy in New York. Both John Matlock, the famous Mets pitcher and Monte Irvin, recently inducted into the Baseball Hall of Fame, saw fit to share this occasion with the cadets.

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

AFRO-AMERICAN SERVICES, INC., A MINORITY FOOD AND MESS ATTENDANT FIRM

Afro-American Services, Inc., a minority food and mess attendant firm, was incorporated in 1970 in Delaware.

Its purpose was to meet the requirements for minorities to participate in the $100 billion dollar a year food service industry through the S.B.A. 8(a) program, as authorized by the President's executive order.

Having qualified and been certified as required, it was not until January 1st, 1973, that we were awarded our first food service contract at the United States Merchant Marine Academy at Kings Point, New York. The initial contract was for a six months trial period. We were contracted to do the total food service, serving three meals per day to 850 midshipmen.

At the end of the trial period, we received an extension for an additional year.

This is the largest and the only contract of this type serviced by a totally owned black corporation.

As a result of our effectiveness, we were awarded the mess attendant's contract at the Naval Support System, Brooklyn Navy Yard.

Our administrative and labor force is thoroughly integrated, employing some fifty persons of all ethnic backgrounds. Recently we began hiring Vietnam veterans to train them for application in all levels of the industry. Our aim is to build a black-owned food conglomerate, though integrated, that in the foreseeable future will be competitive within this segment of the economy and to become economically and financially viable.

As a result of our professionalism, we have succeeded in obtaining a commitment with American Airlines to place food items on their flight menus. Barbecued spare ribs and Texas style chili.

Lloyd von Blaine is chairman and chief executive officer.

Address—527 Madison Avenue, New York, New York 10022. Projected sales for 1973–74: $1,500,000.00.

Mr. JAVITS. This is just one of the splendid examples of the role Government can play in giving minority business, be it black, brown, red or yellow, an opportunity to prove the ability of its personnel.

It is important that such program consist of action and not mere rhetoric. As part of the continuing effort to insure that each of the Federal agencies continue their efforts to do business with minority entrepreneurs, each Cabinet officer has recently received from the White House the following letter which I ask unanimous consent to printed in the RECORD.

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

THE WHITE HOUSE,
Washington, D.C., October 3, 1973.

DEAR MR. SECRETARY: During my first term, one of the actions of which I am particularly proud was the creation of the Office of Minority Business Enterprise within the Department of Commerce. This program helps to stimulate and assist minority entrepreneurs in owning their own businesses and thereby participating more fully in the mainstream of American economic life.

The success of this program has been due in large measure to the cooperation and support extended to it by other Departments in the Federal Government. As we now have a new Cabinet team, it seems appropriate for me to reemphasize to each Cabinet member my personal interest in OMBE and to ask that you and your Department do everything possible to assist in the growth of minority enterprises.

I understand from Secretary Dent that your support of the OMBE Inter-agency Council would be particularly helpful.

I know I can count on your continued backing of the minority enterprise program.

With warm regards,

Sincerely,

RICHARD NIXON.

WAR IN VIETNAM GOES ON

Mr. CHURCH. Mr. President, the Vietnam war goes, on entering into its third phase. America's direct military intervention does not. The fighting between the Vietnamese appears to be on the upswing again with a buildup of North Vietnamese forces in South Vietnam. This is Vietnam's business, it is, as Henry Kissinger has said, a civil war.

While the war may be reescalating, the United States may not legally partake in the military hostilities, without the express authorization of Congress. Only by congressional consent can U.S. forces join in the fighting again on the ground, in the skies, or from off the shores of the Indochina peninsula.

It appears, however, that certain top officials in our country are overlooking the legal prohibition against further American military involvement. Veiled threats have been made. For instance, Air Force Gen. John Vogt recently spoke of a resumption of the bombing of North Vietnam in the event of Communist "aggression." A State Department official talked obscurely about North Vietnam's past "serious miscalculations about the U.S. response to such moves." There is, too, a story that appeared in the November 12 issue of the respected Far Eastern Economic Review out of Hong Kong that the resumption of punitive U.S. bombing was seriously considered by President Nixon in September.

Such speculation within the Executive Departments raises sombre questions as to whether the law of the land is to be ignored. I remind these Executive decision-makers that the modified Case-Church amendment, passed by both bodies on June 30 and signed into law by the President, is still in effect. A resumption of American bombing without prior, explicit congressional approval, would constitute a presumptive case for impeachment.

I ask unanimous consent that four recent articles on renewed fighting in Vietnam be printed in the RECORD.

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

[From the New York Post, Nov. 13, 1973]

WAR IS ESCALATING AGAIN IN VIETNAM

(By R. Pierre-Paringaux)

SAIGON.—With world attention focused on the Middle East conflict, Vietnam today seems heading for a new all out war amid almost total international indifference.

During the last week South Vietnam escalated from guerrilla warfare and harassment to the stage of violent reprisals.

The recent Communist rocket attack on the major Bien Hoa airbase, near Saigon, and the South Vietnam air force attack on the provisional revolutionary government (PRG) capital of Loc Ninh, the old plantation town near the Cambodian border, are seen by both sides as the curtain raiser to an offensive.

NO CONTROL

Each side has had nine months to rebuild its divisions with men and material.

This threat of a new full-scale war comes at a time when the International Control Commission (Hungary, Poland, Indonesia and Iran) is ready to operate after being paralyzed for more than four months.

But the commission was unable to control the cease fire violations during the first five months after the Paris agreement, when chances of negotiating a political settlement appeared far better than they do today.

For several days now, however, the commission has been trying to establish contacts with civilian and military officials on both sides. The aim is to enable the commission to play its role and also to prevent the military situation reaching the point of no return.

Yet there are factors in Vietnam which militate against a general offensive. For one, the attitude of the U.S.—new air intervention or not—remains a mystery.

TRUMP CARDS

On the military level, each side holds trump cards which would neutralize each other in the event of an offensive.

South Vietnam has a powerful force of hundreds of fighter-bombers but it seems that this "air superiority" would be reduced by the many anti-aircraft batteries, and even SAM-2 missiles, which have been established in the PRG zones since January.

Many observers, therefore, believe that neither side is ready for a new total war. They believe the clashes of the dry season will be localized offensives and reprisals. And this situation could continue.

[From the Far Eastern Economic Review, Nov. 12, 1973]

TEMPTING THE PRESIDENT

Only a handful of people know how tempted President Nixon was to order the

resumption of limited, punitive bombing of North Vietnam in early September. This action was under consideration in Washington because Hanoi had not responded to Nixon's demand to dismantle Soviet-built SAM-2 missile sites at Khe Sanh. Before taking the bombing step, however, Nixon turned to Moscow. Under strong Soviet pressure, the North Vietnamese agreed to dismantle the sites in South Vietnam and move them back to a position just north of the 17th Parallel, where the Americans were prepared to accept Hanoi's argument that they serve as defensive weapons.

[From Far Eastern Economic Review, Nov. 12, 1973]

VIETNAM: HERE WE GO AGAIN

(By Hai Au)

SAIGON

Government circles here believe the early communist offensive they expected has begun. Certainly post-cease fire fighting has reached unprecedented proportions. Both sides have considerable firepower and the world appears otherwise engaged. The question, therefore, is whether the Vietnam war is back in full swing.

With American reporters gone with their troops and local authorities not terribly enthusiastic about frontline coverage, first-hand reports are hard to come by. Whatever information is available comes from official sources.

According to Saigon, two North Vietnamese regiments spearheaded by scores of Russian-built T-54 tanks made a lightning assault on two government outposts in Quang Duc Province, about 200 kilometers northeast of Saigon on the Cambodian border. The attack was described as the biggest battle since the ceasefire came into effect last January. In a tactical pattern that has now become customary since the first South Vietnamese stronghold at Le Minh in the Central Highlands fell in the post-ceasefire war in late September, the two regional forces and armoured positions at Quang Duc were overrun by the communists after ten hours of fierce fighting.

The 130-mm guns in the outposts remained helplessly silent and reportedly had to be destroyed before the tactical withdrawal. Reports on the fate of the 300-man garrison are still sketchy. The bloody action in Quang Duc was followed by an orgy of shelling and guerrilla-style attacks in other provinces.

Early on Tuesday morning, November 6, Bien Hoa airbase 25 kilometres northeast of Saigon and nearby ARVN positions received a heavy barrage of 120-mm rockets. Four F-5 fighter aircraft were destroyed. The communists also initiated ground attacks at the same time in the Mekong Delta, and the coastal provinces in central Vietnam. A South Vietnamese Army spokesman said every effort was being made to prevent the communist forces from shelling Saigon and other major cities.

Early in October when an ARVN outpost located halfway between Hue and Da Nang was captured by the communists, military authorities in Saigon speculated that it signaled the other side's effort to seize two of the northernmost provinces of the republic to create a physical and coherent state under the control of the Provisional Revolutionary Government. But early this month, with the fresh influx of NVA troops from Cambodia into the so-called iron triangle just north of Saigon, President Nguyen Van Thieu warned that the communists were preparing for a major offensive to turn Tay Ninh and Binh Duong provinces west and northwest of Saigon into NFL-controlled territory and then drop the word provisional and make the PRG a more permanent, de facto second government in South Vietnam. Whatever their designs and intentions might be, the North Vietnamese and their allies in the South must be considering the next round of armed offensive as a decisive strike.

From a close look at South Vietnam's present strategic map and a study of the pattern of North Vietnamese recent strikes and movements, it appears that the communists' territorial ambitions may be aimed at carving out for the PRG the Central Highlands portion of Military Region 2 and stretching it down to meet their stronghold in Binh Long and Phuoc Long in Military Region 3 north of Saigon.

Action in the Mekong Delta and elsewhere including harassment and shelling of populous centers are only diversionary tactics aimed at tying down the South Vietnamese forces locally and disrupting the normal functions of the economy.

In Saigon and elsewhere recently there have been hints that US air power may be reintroduced. But it is believed that if a more equitable balance of power can be established between the two warring sides in South Vietnam wtihout further outside armed intervention, the chances of a peaceful political settlement in accordance with the Paris Agreement might come closer to reality.

[From the New Republic, Nov. 17, 1973]

WE AREN'T OUT OF VIETNAM

(By Stanley Karnow)

In contrast to Secretary of State Henry Kissinger, who jubilantly accepted the Nobel Prize the other day as recognition of the Nixon administration's contribution to "a lasting peace," chief North Vietnamese diplomat Le Duc Tho displayed considerable realism in rejecting the award on the grounds that "peace has not been really restored" in Vietnam. Bolstered by extravagant amounts of US weaponry, South Vietnamese President Nguyen Van Thieu has stubbornly resisted a settlement of the kind envisaged in the Paris agreement, and the Communists, their hopes of making gains by political means frustrated, have gradually resumed military action. As a consequence the conflict that was never ended by the case-fire accord signed last January now appears to be spreading. Familiar places are again in the news in reports of battles in Binh Dinh and Chau Doc and in the Central Highlands near Pleiku, and, in the estimation of most specialists, these clashes portend widened hostilities. The key uncertainty is when the larger outbreak will come. Some expect a full-scale war to erupt in the approaching dry season; others forecast it for late next year. Only unalloyed optimists still cling to the hope that a compromise can be achieved, perhaps through the sort of international diplomatic maneuvers now being carried out by Kissinger in the Middle East.

An escalation of the fighting in Vietnam would hand President Nixon one more difficult predicament. Defense Secretary Schlesinger has bluntly warned that the US would resume its bombing in the area in the event of Communist "aggression," and his threat was echoed a couple of weeks ago by General John Vogt, commander of the American forces based in Thailand. However Congress has specifically denied Mr. Nixon the funds to commit the US to combat activities "in or over" Indochina, and thus he cannot legally fulfill his pledge to those of his subordinates to defend the Saigon regime by renewed air strikes without violating his promise to comply with the law—a violation that would further weaken his already frayed relationship with the legislature. Congress' vote last week overriding his veto of the war powers bill dramatically illustrates the extent to which his influence in Congress, particularly on the subject of foreign affairs, has declined. The President could, alternately, request fresh authorzation from Congress to undertake military action, but present public attitudes toward Vietnam suggest that such an appeal would touch off angry debate and rekindle all those hot passions that have cooled since the US withdrawal. The skepticism aroused by his alert over the Middle East last month shows plainly that Nixon's credibility has dipped to an all-time low, and that distrust of his motives, indeed his judgment, would inevitably impair his capacity to react forcibly in Vietnam.

Kissinger recently noted that "one cannot have a crisis of authority in a society for a period of months without paying a price somewhere along the line," and that "somewhere" might turn out to be Vietnam. Judging from their current behavior, the North Vietnamese seem to believe that this is an opportune time to take advantage of Mr. Nixon's troubles at home and advance their own aims. Hanoi publicists have been stressing that the US, enfeebled by what they call the Watergate "deluge," can no longer police the world as it did in decades past. Therefore, they imply, the administration's ability to respond to a flare-up in Vietnam is limited. These commentaries coincide with orders to Communist troops to "strike back at the enemy," and they have been matched by evidence of a massive build-up of North Vietnamese and Vietcong strength in the South. According to reliable intelligence sources in Washington, the insurgent force in the South has increased from about 150,000 in January to nearly 200,000 at present, with almost one-quarter deployed in the region around Saigon, where government units are said to be weakest. The North Vietnamese also have heavy artillery, surface-to-air missiles and some 700 tanks in the South, and they have renovated airfields, constructed all-weather roads, erected immense storage facilities, and refurbished the port of Dong Ha in order to move in supplies by sea. Some analysts submit that they might use aircraft for the first time, if they launch a major offensive.

Hanoi's military build-up was designed at the outset to give the Communists parity with the South Vietnamese government, whose forces numbers more than a million men armed with first-rate US equipment. One of Thieu's main objectives in delaying the cease-fire agreement in October 1972 was to gain the time in which to acquire weapons, and the US obliged him with a crash program of supplies valued at nearly a billion dollars. In addition to four regiments of M-48 tanks, three frigates and thousands of tons of ammunition, Thieu received 300 Chinook and Huey helicopters, 36 C-136 transport aircraft and 200 F-5A fighter airplanes, making his air force the third largest in the world.

Under Article 7 of the Paris agreement, both the Saigon regime and its enemies are permitted to replace materiel on a piece-for-piece basis. The International Commission of Control and Supervision, which comprises Indonesian, Iranian, Hungarian and Polish representatives, is charged with keeping track of these replacements, but in fact the flow of equipment goes unchecked, essentially because ambiguity suits the two sides. As a result the US is now planning to replace Saigon's F-5As with F-5Es, a superior model that might have been designated differently had not the Pentagon considered it expedient, for Vietnam purposes, to put a similar number on the airplane. Despite efforts by congressmen and journalists including myself to determine what other equipment is being sent to Vietnam, neither the Defense nor State Departments has been forthcoming, though such information is supposed to be public. Along with this secrecy there are hints of abuses. South Vietnamese troops reportedly sell their weapons to the Cambodian army and put in claims for new ones, and an official US audit last spring discovered that Saigon had trumped up a request for nine tanks.

The status of the American civilian technicans assigned to Vietnam is equally cloudy. Members of the Senate Foreign Relations

Committee staff were told in April that the number of U.S. private contract employees would be reduced to fewer than 2,000 by the end of this year and to approximately 500 "very soon thereafter." Official figures show that the number still exceeds 3,500 more than half of them working for Lear Siegler on aircraft maintenance.

Any estimate of the Saigon government's strength must also take into account the U.S. presence in Thailand and Guam, and on aircraft carriers off the South Vietnamese coast. In Thailand, where the U.S. deploys 700 B-52s and fighter bombers on seven airfields, plans to cut down the force of 38,500 American troops were suspended early last month as signs of possible hostilities in Vietnam multiplied.

Despite a cease-fire agreement on Laos, there are few indications that the U.S. intends to pull completely out of that land. On the contrary the administration appears to be transferring its Laotian establishment across the Mekong River to northeastern Thailand, as it did when it was constrained after 1962 to respect Laotian neutrality. Since then the sector of Thailand adjacent to Laos has become the site of a wide variety of logistical installations operated by both the Pentagon and the Central Intelligence Agency. The U.S. presence in Cambodia also continues in the form of a military mission that is legally barred from doing more than delivering equipment but, according to a recent General Accounting Office study, flaunts the law by advising the Cambodian army. The President is currently seeking $200 million in aid for Cambodia in addition to more than a billion dollars to keep the Saigon government army operative.

The Communists could have probably tolerated the combination of the Saigon regime's harder muscle and continuing U.S. support, since they were matching it with their own military build-up. But what apparently led them to edge toward their present level of violence—and may spark a bigger explosion—was their incapacity to make any political headway in the face of Thieu's intransigence. They signed the Paris agreement in the expectation that it would improve their political chances inside the South in three important respects. In the first place, the cease-fire brought the withdrawal of U.S. forces from Vietnam, and that was Hanoi's initial priority. Secondly, they calculated that it would give them the opportunity to consolidate their position in the territories they held, and thus enhance the Vietcong's stature as a government parallel to the Saigon regime. And finally, they anticipated that the Council of National Reconciliation and Concord to be established through negotiations with Thieu would eventually open the way to the creation of coalition rule in Saigon. For these reasons they welcomed the Paris accord, urging their supporters to observe it; follow it faithfully, and exhorting them, as one of their directives at the time said, to "eradicate hatred and heal the wounds of war . . . by placing national interests above all." In short the Communists perceived the truce as an opportunity to lower their military profile and concentrate on political action to reach their long-range goal: control of Saigon and reunification of Vietnam.

But the reasons that made the Paris agreement acceptable to the Communists made it anathema to Thieu. Unwilling to accede to the notion that the Vietcong represented a rival government, he systematically harassed its representatives as well as those of Hanoi, refusing them diplomatic privileges, locking them into guarded compounds and even inspiring attacks against them by "spontaneous" mobs. He repressed press and political freedom in Saigon more than ever, and although his prisons are estimated to hold at least 40,000 political captives, he admitted to only about 5000, thus resisting a provision of the Paris agreement that calls for an exchange of civilian prisoners who, if freed, would reinforce the opposition to his government. Consistent with his view of himself as the sole ruler of South Vietnam, Thieu has rebuffed Communist demands that a constituent assembly be elected to write a new constitution and has insisted instead that elections be held under his own auspices. As D. Gareth Porter has pointed out, the US was prepared to exert pressure on Thieu to sign the Paris agreement, but it has done little since to persuade him to honor its terms. The result, which is taking shape at the moment, will be a return by the Communists to arms; Kissinger, now en route to Peking, will doubtless ask the Chinese to persuade Hanoi to abandon a military approach and go back to political struggle. The secretary of State probably plans to make the same request of the Russians, and he may figure that both they and the Chinese can curb the North Vietnamese by cutting back on supplies to Hanoi, as they did prior to the settlement last year. But the international situation has altered somewhat since, and Kissinger's expectations of big power cooperation may prove illusory. The North Vietnamese have been observing the Middle East crisis closely, and they can argue persuasively with the Kremlin that they deserve at least as much support as the Soviet Union gave to the Arabs. In addition they can certainly explain that, with the Nixon administration in disarray, their chances of escalating the war in relative safety are greatly improved. Moreover, with the dispute between Moscow and Peking continuing unabated, Hanoi can play the Russians and Chinese against each other, in their own favor.

But even without either Soviet or Chinese backing, the North Vietnamese are believed to have the means to sustain an offensive for six months, and unless new elements intervene to give them political potential in the South, the battlefield appears to be their only option. Mr. Nixon may be tempted to view a renewal of the war as a distraction from the woes of Watergate. But there is another side to that: a recrudescence of fighting in Vietnam will show his much-vaunted "peace with honor" to have been another exercise in public relations.

EMERGENCY LOCATOR BEACONS ON ALL PRIVATE AIRCRAFT

Mr. DOMINICK. Mr. President, as part of the Occupational Health Safety Act, an amendment sponsored by me was adopted requiring the installation of emergency locator beacons on all private aircraft, with certain exceptions, on or before January 1, 1974.

Having been a pilot since 1935 and still flying, I know full well that most pilots are optimists, and most pilots feel that if there is an accident, it will happen to someone else who does not fly as well as they. Many have written about the expense of an ELT and others have written saying that no one is listening so the signal will not be heard, or that it goes off prematurely and clogs the airways with unnecessary emergency calls. All of these arguments, if true, would militate against the law.

However, very few of these statements can stand up under close scrutiny. As far as expense is concerned, the price of an ELT runs between $50 and $700 with the average most commonly used being about $200. I know as I just installed one in the Beechcraft Baron, which I bought. Most flyers, if they can afford to fly a plane at all, can afford this kind of expense and in fact, it may be the cheapest insurance they ever bought.

Insofar as listening devices are concerned, this is now somewhat of a problem. It would be relatively simple for all airliners, which crisscross the country to keep one of their receivers on 121.5, the emergency frequency, and to install a small light in the cockpit which would flash amber whenever a signal was encountered. Some airlines have indicated they are willing to try this if the others would do so, but some of the major airlines have been worried over expense and have declined to do so. I am exploring this further. The FAA has installed direction finding devices in their aircraft and monitor 121.5. The other frequency used by an E.L.T. is 243 and this is continuously monitored by the military. It is my hope that other aircraft with two radios will keep one keyed to 121.5 to pick up signals at any time when they do not need both for instrument flying. In addition, there have been proposals for a search-and-rescue band on a satellite, which would pick up the signals and transmit the signal location to a central station whenever it is triggered. All of this activity augurs well for the future.

Mr. President, recently two good friends of mine, who were very helpful in developing the ELT concept—Mr. Larry Ulrich and Mr. Dexter Cox, both highly experienced and capable pilots, were flying to Colorado from California. Mr. Cox keeps a transceiver open on 121.5 at all times, and over Yosemite Park, they picked up a signal. With no directional needle, they did a "lost-range" procedure and radioed to the FSS Center the approximate location. This resulted in a dramatic rescue, probably saving the lives of two downed and injured persons, just before a cold front rolled over the area. It is heartwarming indeed to see this system work and work well, and it is my belief that as we go into 1974, the ELT will be far more widely used, that we will not only save lives and anguish for those awaiting word, but will also save millions of tax dollars now used up by "search-and-try-to-see" methods.

Mr. President, I ask unanimous consent that a letter I recently received from Larry Ulrich briefly describing this rescue and an article on the ELT system previously published be printed in the RECORD.

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

COMBS GATES DENVER, INC.,
Denver, Colo., October 24, 1973.

Senator PETER H. DOMINICK,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOMINICK: While en route to Denver from San Francisco last week-end, we decided to circle Half Dome at Yosemite for a little sightseeing. As we approached the Yosemite area we picked up a weak ELT signal on 121.5. It has become Dexter Cox's practice to leave his #2 comm tuned to 121.5 with the volume all the way up while flying cross-country. He has been doing this for the past four months but has never before picked up a signal. Therefore, we were all surprised to hear the telltale and unmis-

takable sounds of an ELT as we approach closer to Yosemite.

We flew a triangulation on the signal, fading it in each direction and pinpointing its approximate location 5 E/NE of Half Dome in Yosemite. We then reported this to the local center frequency and transponded the exact location.

The next day we called Fresno Center from Denver to determine what they had found out. They advised us that an accident had occurred east of Half Dome with two serious injuries; the aircraft had been located as presumably, a result of our report and other reports, and a ground party had been dispatched. A cold Pacific front rolled into the area the next day, and there is no question in my mind that the injured people would have died of exposure if it hadn't been for their ELT and our listening ears.

Because of your tremendous contribution and your principal role in pushing the legislation through which requires the installation of these devices, I thought you would find the above incident gratifying and rewarding.

Very truly yours,

L. A. ULRICH,
Executive Vice President.

LOST OR FOUND

(By L. A. Ulrich)

The fact that aviation accidents are still front-page news attests to their rarity in an age when thousands die each year on the highways. In fact, the safety record general aviation has achieved is on a par with the outstanding safety record established by the airlines in recent years.

Nevertheless, the handful of aircraft accidents which occur tend to attract considerable attention, especially when an aircraft is missing for any length of time.

Nowadays there's absolutely no reason why any aircraft should remain missing for more than a few hours. We live in a wonderful electronic age. Out of this technology we have developed a system for *immediately* locating downed aircraft through simple, proven, electronic devices which are now being widely used in Viet Nam to locate and rescue our downed pilots within a few hours.

Yet general aviation continues to rely on the same old search methods we've been using since before World War I! We spend countless hours and millions of dollars each year flying (weather permitting) over the approximate area in which the aircraft is presumed to be missing, looking down at mile after mile of brush, timber, swamp, or rough terrain hoping to catch a "glimpse" of "something."

This procedure is not only absurdly ineffective as a means of finding survivors in time to save them from exposure or starvation but in many cases it has completely failed to turn up any trace of the airplane, even after years of searching!

Survivors of such accidents usually live for at least 24 hours before succumbing to exposure or injuries. After the first 48 hours the chances of their continued survival are less than 25%! If time is ever "of-the-essence," it's during the crucial hours immediatey following a forced landing. Our experience with quick medical evacuation in Viet Nam has proven time and time again that quick evacuation is the difference between life and death.

In 1966 of 143 crashes in the U.S., involving a search, at least 109 occupants survived the first 24 hours period. Many of these later perished from injuries, hunger, or cold before they were found, yet, if they'd been located within 24 hours nearly all of them might have lived.

Most of the inexpensive locator beacons currently available could have pinpointed the exact location of each of these down aircraft *within two to three hours* by utilizing 3 or 4 search planes *flying safely above the terrain* and *over the weather.*

Compare this with our present visual search methods which, according to Gloria Heath of the Guggeinheim Aviation Safety Center at Cornell University, (in a report to be published soon) require an average of *171 flight hours per down aircraft!* These are depressing statistics when help is usually needed within 24 hours to survive! Moreover, the longer the search extends, the more difficult it becomes to find the missing aircraft due to successive snow cover, etc.

Paradoxically, the adverse weather which often causes an accident frequently prevents a visual search from beginning until it's too late. By contrast, *one plane flying 240 miles per hour at 25,000 feet can search 200 square miles every minute provided the downed aircraft is using a locator beacon!* This means, an area the size of the entire state of California can be searched completely by only 5 airplanes in less than three hours! Modern electronic search techniques permit the entire search to be conducted above the weather or at night (as was the case in a recent crash near Stampede Pass in central Washington). The missing aircraft was located electronically at night by a search aircraft flying on top of an overcast. The crash was never seen by the searching aircraft but its location was pinpointed and its victim was evacuated within a few hours from a wilderness area in sub-zero temperatures. He was wearing tennis shoes and levis but he lived thanks to the modern miracle of electronically locating a downed aircraft.

By contrast, we're all familiar with the tragic story of the Olen family who lived in the wreckage of their airplane in northern California for several weeks before finally succumbing to starvation. Although it was impossible to spot their wreckage from the air, dozens of airplanes flew overhead each day, any one of which *could* have received an emergency beacon signal on their regular comm. transceiver.

At the AOPA, RTCA, FAA sponsored National Conference on Locator Beacon Implementation, which was held this April 3rd and 4th in Washington D.C., many excellent low-cost emergency radio beacons were displayed.

These beacons ranged in price from $50 to $700 (with an *average* cost of around $200) *and they work!* Viet Nam has proven their amazing reliability and value as a means of saving lives.

Many of these beacons have been available to general aviation for years but their manufacturers complain that they just don't sell (except in Viet Nam) for the same reason that most people didn't *voluntarily* install seat belts in their cars until Ralph Nader and federal legislation came along. It's our belief that it will take similar legislation to overcome the "it can't happen to me" attitude of most pilots. The FAA has "actively encouraged" the "Voluntary" use of these devices since 1964 (FAA AC-170-4) with *noticeable lack of success* which should provide ample evidence that extensive voluntary use is unlikely. Safety legislation requiring the use of these proven life-saving devices is needed if such devices are ever to be widely utilized. The FAA has taken preliminary steps towards such legislation in their advanced notice of proposed rule making docket No. 8744, notice No. 68-4 which was issued March 1, 1968.

The proposed legislation would "require that a crash locator beacon be carried on general aviation aircraft when operating over large bodies of water, mountainous terrain, or remote and sparsely populated areas."

The FAA seems to be suggesting either a beacon rental system or limited installation based on geographic location which, when applied to anything as *mobile* as an airplane, just isn't realistic.

As commendable as the proposed regulation is, ***we do not feel it is sufficiently broad, or enforceable, in its present form,*** *to solve the problem. Yet ONLY the FAA* has the full legislative authority to take *whatever* steps are necessary to alleviate this needless problem, by modernizing our search technology.

Rental beacons aren't the answer because pilots wouldn't be anymore inclined to rent these than they are to rent maps, first aid kits, or parachutes! Ask any fixed base operator how successful he's been renting any of the foregoing items. What's more, to be fully effective the beacon must be permanently or semi-permanently affixed to the aircraft in such a way that it will survive and be impact actuated by a crash. Such special installations don't lend themselves to rental.

Limiting beacon installations to certain geographic areas is also an idealistic (and probably unenforceable) half-way solution to a problem that gets worse each year as the general aviation fleet grows. For example in 1965, 27 planes were lost which have never been found, in 1966 an additional 31 aircraft disappeared.

The distribution of these missing planes is NOT limited to "mountainous terrain" and "sparsely populated areas" as can be seen from the map which was compiled with great dedication by Colorado's Senator Peter H. Dominick, who strongly supports any legislation which will contribute to the elimination of this tragic (and now-a-days needless) problem. The miniature airplanes indicate the approximate area and date in which 56 airplanes (some of them missing since 1959) are presumed to be located. None of these have ever been found. Note how evenly these missing aircraft are distributed across the country with aircraft permanently missing in such flat or well populated states as Missouri, Kentucky, Ohio, Michigan, Arizona, Texas, New York state, and Massachusetts. By contrast there are none permanently missing in Idaho, Utah, and Montana! This problem is clearly NOT limited to "mountainous" or "sparsely populated areas."

We should not lose sight of the fact that most people buy and use airplanes to go places. Thus, an Iowa *based* plane will likely fly regularly over the barren badlands of the Dakotas, the wilderness of northeastern Minnesota, or the Rockies enroute to California or Las Vegas. Similarly, a plane *based* in Atlanta is most likely operated by someone who travels frequently over Alabama, Mississippi, or Louisiana (4 planes missing) the Carolinas (9 planes missing) or Fla. (8 planes missing). It's noteworthy that the populous northeast has more than its share of missing planes, several of which have gone down in dense population areas (like the plane that was finally found within the sight of the Conn. turnpike 6 days and 55 search missions later).

In how many of these accidents would quick location of the aircraft have saved lives? There is considerably evidence that *many* survive the crash only to succumb later to starvation, injuries and exposure.

Even in those accidents which are immediately fatal, the emergency locator beacon would save lives . . . *those of searchers* whose lives have all too frequently been lost while conducting low level "needle in the haystack" visual searches. Six CAP searchers were killed in 1962 and 1963 alone. Some of these volunteer searchers have never been found such as the CAP pilot who's been missing since 1959 in Colorado. Flying very low and very slow over hazardous terrain and in the marginal weather often associated with aircraft accidents inevitably results in additional tragedies.

In addition to the human lives *needlessly lost* through our failure to institute modern search methods, tremendous amounts of money are squandered each year conducting dangerous and inefficient "needle-in-the-haystack" visual searches. The CAP alone has flown 104,175 hours in a 5 year period from Feb. '61 to Jan. '67 Air Force, Coast Guard, and FAA Search and Rescue costs amounted

to a staggering 59 million dollars in fiscal 1966 alone! Despite this tremendous expenditure of time, money, and human effort an uncomfortable high percentage of the airplanes which were being searched for have never been found.

The foregoing facts clearly indicate that a voluntary locator beacon system *or a system based on limited geographical application will fail to provide the desired results.*

It has been suggested that certain types of aircraft (such as training planes) don't need beacons. This argument is based on the popular misconception that such planes don't ever get far enough from an airport to need such a device. The fact is that sooner or later most training ships are flown cross-country by inexperienced pilots. Such pilots are the very ones *most likely to get lost.* Even where an aircraft is flown within eyesight of its airport it can become lost, like the Ohio Cessna 150 which crashed in trees 4 miles from its airport while in a local "touch-and-go" pattern. This plane wasn't found for two days in spite of extensive search efforts.

Similar accidents have occurred in many parts of the country. A letter which appeared recently in Aero West Magazine read, "You can remove my husband's name from your mailing list. He was killed in 1965. I note in your editorial that it would be possible to install an electronic marker beacon in the tail of every plane. If such equipment is available . . . it is unthinkable that it should not be required. Such equipment could have saved a week of fruitless searching for the plane in which my husband crashed with three passengers. The crash occurred only about 33 miles from our home airport . . . Searchers estimated they flew over the spot at least 20 times, but could not see a sign of the plane . . . Even when ground vehicles pointed out the crash after it had been discovered, air searchers could not see it."

However, one could logically ask, "If I put an emergency locator beacon in my airplane, will anybody be listening for its distress signal?"

Many of the beacons currently available transmit a dual signal simultaneously on both 121.5 and 243. 243 mhz is monitored constantly by all military aircraft. This roving fleet of military aircraft literally provides a listening umbrella over our heads.

Further, if emergency beacons become widely used, the FAA has offered to broadcast a "downed aircraft notam" every 30 minutes on its regular weather broadcast, advising pilots in the vicinity to monitor 121.5. Any aircraft with a standard VHF receiver can receive a locator beacon distress signal.

Many airlines have indicated a willingness to extend a helping hand when needed by establishing a listening watch on 121.5 while flying over an area in which an aircraft is known to be down.

Ideally, airliners, gen. aviation aircraft, and military planes should all be equipped with a simple one-channel (121.5) full-time emergency beacon receiver operating a single indicator light which would be activated whenever an emergency signal was received. A simple position report or "ident" is all that would be required to report an emergency signal when received.

However, waiting until such receivers are installed would waste valuable time and fail to provide an *immediate* solution to the problem. Even without this ideal full-time "listening watch" we already possess enough elements to constitute a successful *systems approach.* Our present gen. aviation and airline receivers can be tuned to 121.5 when an aircraft is known (via a flight plan) to be missing.

Thus our roving fleet of gen. aviation aircraft and airlines crisscrossing the country already provide the immediate capability for establishing a 24 hour all-weather listening watch over a given area, when a plane equipped with an emergency beacon is reported missing.

All Air Force Search and Rescue (SAR) planes and many FAA planes are equipped with VHF homers and have pledged their full and immediate support. Within minutes after an emergency beacon signal is reported by any passing aircraft an SAR or FAA plane equipped with VHF homer, would be dispatched to "home-in" on the distress signal and to provide immediate aid via paradrop, helicopter evacuation, or whatever else may be required. Even without a VHF homer a simple audio homing technique can be followed by any plane with a standard VHF receiver.

Finally, in discussions of emergency locator beacons the author inevitably hears nonpilots (and even a few pilots) and local newspapers conjecture that "if the missing aircraft were on a flight plan it could have been located!" This is a misleading oversimplification as is proven by the fact that of the 56 planes missing nationwide many were on flight plans (yet they've never been found). In 1966 alone of the 137 planes which were missing for more than 24 hours, *81 were on flight plans!*

Although flight plans provide an invaluable means for alerting the FAA that an aircraft *is* missing, they usually prove inadequate as a means for pinpointing the exact location of the missing aircraft.

After all, an aircraft can be missing anywhere along the approximate route of its flight plan or, if weather or mechanical problems arise, the aircraft is often forced to deviate substantially from its presumed course. Thus a flight plan can (and has) actually sidetracked searchers in some cases.

Further, there is, *at best, a 3 to 12 hour delay before a search is begun* once an aircraft fails to complete its flight plan. If the weather is adverse or if no flight plan was filed, a search may be delayed even longer.

By comparison, the search for an emergency locator beacon can begin immediately, even at night or in bad weather as previously illustrated.

The flight plans' value as a means of sounding the alarm is unquestioned—this valuable (and free) service should be fully utilized, but its function should not be confused with that of the locator beacon. *It should be used in addition to. Not instead of updating our search and rescue techniques thru the utilization of sophisticated devices such as emergency locator beacons which enable us to take full advantage of our modern technology.*

Why can't a pilot use the radios in his downed aircraft as a locator beacon? Aside from the obvious answer that aircraft avionics are relatively fragile and not designed to be crash resistant, there's the addtional problem that most aircraft transmitters have power requirements which can't be supported for long without the aircraft alternator or generator operating. An electrical short anywhere in the aircraft's system (which is very likely following a forced landing) will sever or drain off what little battery power remains. Thus, even if the radios survive the G loads normally associated with a hard forced landing, sustained transmission is most unlikely.

In addition, the survivors of an accident are often incoherent. Most passengers don't know how to operate aircraft radios and even if they could, an intermittent voice transmission is not as easily heard (nor can it be homed in on as readily) as the steady distress signal emitted by an emergency locator beacon.

A properly designed emergency locator beacon system would operate regardless of the condition of the pilots and passengers. Such units are built to withstand the high G loads associated with forced landings, and crashes. They are designed to transmit efficiently with very low power requirements over a protracted period of time and in such a manner that their signal can easily be homed in on by other aircraft.

However, such devices must be built to very high standards which should be immediately established by the FAA to meet the dual objectives of *low cost and high reliability.* A beacon which fails to function when needed could in some cases prove worse than no beacon at all and thus it is strongly recommended . . . that the FAA require all beacons to meet the following requirements:

A. Simple impact *and* manual actuation.

B. A minimum of 48 hours broadcasting life at 0 degrees fahreheit.

C. A minimum of ¼ watt power.

D. Impervious to the high summertime temperatures encountered inside aircraft and on the ramp.

E. Designed to withstand the high impact "G" loads associated with accidents and forced landings.

Many manufacturers currently offer beacons which meet most of the properties listed above. Among these Magnavox, Micro Electronics, Mar Tech, Garrett, ACR, and many others have done extensive research and are now manufacturing products which are immediately available. Many other manufacturers have shown interest in designing and building such devices if pilots will buy them in quantity.

If our present fleet of over 107,000 active general aviation aircraft were equipped with these devices the cost per unit could be lowered to a fraction of their $200/300 average price.

Widespread installation of these beacons would soon save the government substantial sums of money which are currently being expended through thousands of inefficient and costly hours of visual searching each year.

It would seem therefore, that a portion of the cost to install these beacons in our present gen. aviation fleet might conceivably be borne by the government out of its search and rescue fund because quickly implementing this program is as much to the government's advantage (from a cost standpoint) as it is advantageous to the individual aircraft owner, from a safety standpoint.

With these basic economics in mind, it is our proposal that a portion of the cost to equip all *existing* general aviation aircraft with these devices be borne by the government. Their installation would become mandatory for aircraft manufactured after a certain date and their cost after that date would be included in the basic purchase price of the airplane (just as seatbelts and other safety equipment is now included in the standard price of each new plane). Subsidy of this program would be limited to all aircraft manufactured before the stated date for required installation. By the time this date is attained the cost per unit will be significantly lower due to the widespread installation of these units in existing aircraft. This cost should, therefore, result in an almost negligible increase in the basic price of new airplanes.

However, even if the government is unwilling or unable to subsidize a portion of the cost of these devices, they could well be the cheapest life insurance one might buy and a necessary consideration which all pilots, aircraft owners, and corporations owe to themselves and their passengers now that such proven devices are available to civilian pilots at reasonable prices.

There are currently 56 aircraft missing somewhere in the United States (not including Alaska) with 98 souls on board. Millions have been spent looking for them. *If* the beacon had been available, and *if* their planes had been so equipped, our experience with missing planes in Viet Nam suggests that many would not have perished. Can it happen to you? Is there a better way?

If you think our present horse-and-buggy search methods are good enough no further action is needed. But if you think there's a better, more modern way to conduct our searches for downed aircraft and to rescue their survivors, your comments directed to the FAA will help bring about such a system. Paragraph 3 of the FAA Advance Notice and Proposed Rule Making states "interested persons are invited to participate in the making of the proposed rule." Write FAA Office of the general counsel, attention rules docket GC-24, docket #8744, Notice #68-4, 800 Independence Ave. SW, Washington, D.C. 20590, Attention Gen. William F. McKee or Mr. Dave Thomas.

GROWING SUPPORT FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the support for ratification of the Genocide Convention is well-founded. The basic principles behind our Declaration of Independence and Constitution are the same as those which inspired men of our time to draft this human rights treaty. Our entire American legal system seeks to protect the rights of the individual and to shield him from the arbitrary powers of government. This human rights treaty attempts to accomplish the same purpose.

This convention has received the support of hundreds of groups around the country. Religious organizations of every persuasion, consecutive administrations and even the American Civil Liberties Union finds no inconsistency between this treaty and our constitutional protections.

I urge this body to lend its support to the growing chorus of American support for this important document. This was the first human rights document to be approved by the General Assembly of the United Nations and it deserves our wholehearted support.

WAGE-PRICE CONTROLS

Mr. DOMINICK. Mr. President, on November 1, I joined with 14 other Senators in sending a telegram to President Nixon on phase IV controls on prices of steel and asking for removal of such controls on that product as it is associated with the production of energy.

This problem is yet another example of the results of phase IV and the dislocations caused by wage and price controls. So far this year, I have asked for relief of one kind or another from phase III and IV for gasoline retailers, for beef producers, for farmers, for shippers, for hospitals, and the list goes on. Consumers in my State have seen beef grow short on the meat markets, have been told they could not get more gasoline because costs were frozen, and now must wonder where the next shortage will arise.

The complexities of wage and price controls are described in reams of articles and so far as I can tell, Mr. President, have misled the American people. The time has come to rid this country of them and, therefore, I joined in cosponsoring S. 2599, a bill that would do just that by repealing the Economic Stazilization Act of 1970.

We have heard and read much recently about the need to return to what is basic and fundamental in this country, and certainly freedom in the marketplace is high on the list. I have not and will not endorse controls as a permanent way of life, and when one looks at the record for 1973, I think it is obvious that continuation of them will continue to cause further problems. Right now, the inflation rate of 7 to 8 percent annually is higher than the 6 percent rate prevailing in August of 1971.

The phenomenon of wage-price controls is not new, nor are their results unpredictable over the long run especially in a peacetime economy. Recently, in the Wall Street Journal, an interesting article by William H. Peterson appeared outlining the experience of ancient Rome. Mr. President, I ask unanimous consent that this article be printed in the RECORD at the end of my remarks and would urge all of my colleagues to give it and the relevance it has today careful scrutiny. Certainly, as I have watched the recent attempts of the Cost of Living Council to deal with petroleum, the relevance of this article is all the more obvious.

Mr. President, the question of whether or not controls have worked in the past 2 years must give way to where we are heading with continued use of controls. I am convinced that we are going further into a labyrinth of schedules and exceptions from which we will have greater and greater difficulties emerging. I have maintained staunch support for a balanced budget and a curb on congressional spending as the key to counteracting inflation. I believe the time has come for us to face the responsibility of delivering that balanced budget, rather than relying on controls which historically have proved themselves harmful when their "temporariness" emerges into permanency.

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

THE SAD SAGA OF DIOCLETIAN

(By William H. Peterson)

Many phases and freezes ago, long before Santayana observed that those who don't know history will be condemned to repeat it, long before Ricardo (and much more recently Milton Friedman) propounded the quantity theory of money—namely, that as the volume of money expands faster than production, prices tend to rise—Rome fought inflation. Not wisely but hard. And long. Finally, in 301 A.D. came the famous price-fixing Edict of Diocletian.

The background of the Edict points to the recurrent patterns of history. In 357 B.C. Rome set the maximum interest rate at 8⅓%. In 342 B.C. interest was abolished to favor debtors. In 90–86 B.C. the currency was devalued and debts were scaled down 75%. In 63–61 B.C. loans were called and there was a flight of gold, which was finally stopped by an embargo on gold exports. In 49–44 B.C. Julius Caesar cut the relief rolls from 320,000 to 150,000 by a means test. In 2 B.C. Augustus cut the relief rolls (which had grown again) from 320,000 to 200,000. In 91 A.D. Domitian created the equivalent of a government "soil bank" which wiped out half of the provincial vineyards to check overproduction of wine. In 274 A.D. Aurelian made the right to relief hereditary, with bread substituted for wheat and with free pork, olive oil and salt added.

This pattern of the welfare-interventionist state is perhaps better observed in the deterioration of the purchasing power of the Roman coin of denomination, the denarius. For although good price records and price indexes are not available, we know Rome underwent persistent and cruel inflation and did so through the rapid expansion of the money supply (our old friend, the quantity theory of money.) Pre-Gutenberg and the printing press, the money supply mainly was ballooned via debasement, through alloying base metal into precious. The following table traces the deterioration of the denarius after Augustus whose coin, save for a hardening agent, was practically pure silver:

Issuer:	*Percent silver*
Nero, 54 A.D.	94
Vitellius, 68 A.D.	81
Domitian, 81 A.D.	92
Trajan, 98 A.D.	93
Hadrian, 117 A.D.	87
Antoninus Pius, 138 A.D.	75
Marcus Aurelius, 161 A.D.	68
Septimius Severus 193 A.D.	50
Elagabalus, 218 A.D.	43
Alexander Severus, 222 A.D.	35
Gordian, 238 A.D.	28
Philip, 244 A.D.	0.5
Claudius Victorinus, 268 A.D.	0.02

Into this inflationary, welfare-interventionist milieu came Emperor Diocletian, determined to stop inflation by law, by his Edict of 301 A.D. His Edict complained of such "unprincipled greed" that prices of foodstuffs had recently mounted "fourfold and eightfold."

The preamble continued: "For who is so insensitive and so devoid of human feeling that he cannot know, or rather has not perceived, that in the commerce carried on in the markets or involved in the daily life of cities, immoderate prices are so widespread that the uncurbed passion for gain is lessened neither by abundant supplies nor by fruitful years, so that without a doubt men who are busied in these affairs constantly plan to actually control the very winds and weather."

The Edict "commanded cheapness," covered some 800 different goods and recognized the cost-push side of inflation—spelling out wage limits for teachers, writers, lawyers, doctors, bricklayers, tailors, virtually every calling—but, of course, forgot all about the demand-pull side, stemming from the continuing debasement of the currency. The teeth in the law were very sharp. The penalty for an offense was death. The complexity of the Edict can be seen in the hundreds of wage and price schedules:

Products:	*No. of schedules*
Foods	222
Hides and leather	87
Timber and wood products	94
Textiles and clothing	385
Wicker and grass products	32
Cosmetics, ointments, incense	53
Precious metals	17

There are 76 different wage schedules, broken down into skilled and unskilled categories. In the silk-weaving and embroidery trades there were 13 different schedules; wool weavers were broken down into six wage categories and fullers had 26 different authorized pay schedules.

The Edict, of course, failed. In 314 A.D. Lactantius, a contemporary historian, wrote of Diocletian and his grand plan as follows:

"After the many oppressions which he put in practice had brought a general dearth upon the empire, he then set himself to reglate the prices of all vendible things. There was much blood shed upon very slight and

trifling accounts; and the people brought provisions no more to markets, since they could not get a reasonable price for them; and this increased the dearth so much that at last after many had died by it, the law itself was laid aside."

SEATO

Mr. CHURCH. Mr. President, the Senate recently passed a resolution—Senate Resolution 174—calling on the Committee on Foreign Relations to explore America's treaty requirements to SEATO and to make a complete review of American participation in SEATO and the treaty organization. This is taking place.

An excellent account of the SEATO treaty by America's foremost scholar on Southeast Asia, George McT. Kahin of Cornell University, appeared in the October 13 issue of the New Republic, and I ask unanimous consent that the article be printed in the RECORD.

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

CUTTING THE UNITED STATES OUT OF SEATO

(By George McT. Kahin)

Continuing American participation in the Southeast Asia Treaty Organization (SEATO) militates against prospects for any effective reassertion by Congress of its foreign policy role in Southeast Asia. Yet the Senate still displays a remarkable complacency toward the survival of SEATO. Though recently dormant, that old treaty is still alive, operative and available as an instrument for further presidentially initiated intervention. Indeed it provides an assertive President with one of his strongest cards in dealing with Congress, should he wish to create a new or expanded military role in Indochina, Thailand or the Philippines.

In the euphoria that surrounds repeal of the Tonkin Gulf resolution, many seemed to forget that Tonkin provided the principal rationale for the Johnson administration's Vietnam intervention for only a year. By early March 1966, in the face of mounting Senate criticism, the administration felt the need for greater authority if its Indochina venture was to be continued and escalated. Thereupon it shifted its emphasis from Tonkin Gulf to SEATO as the major public justification for our Vietnam policy, with Arthur Krock noting in his column of March 6, 1966 that Dean Rusk had moved to cite that treaty as "the fundamental source of President Johnson's authority to commit the United States to whatever expenditure of manpower and treasure he deems necessary to sustain the war in Vietnam."

As endorsed by the Senate 18 years ago, SEATO did not authorize US military intervention in situations such as the one that developed in South Vietnam; nevertheless later Congresses permitted Presidents Kennedy, Johnson and Nixon to use SEATO as authority for our intervention. They did so by acquiescing to White House assertions that the Vietnam conflict was an instance of outside aggression, rather than a locally rooted insurgency and civil war.

To understand how this happened and to appreciate why the survival of SEATO makes it difficult for Congress to restrain further presidentially initiated military adventures in Southeast Asia, it is necessary to look carefully at the actual nature of our SEATO commitment. The treaty's two principal prongs are addressed to outside aggression and to internal insurrection, or "subversion" as it was originally termed. Only in cases of outside aggression can its language be construed as providing scope for anything like a direct and unilateral response by a signatory. With respect to insurrection, the treaty is susceptible to no such interpretation. In such instances it stipulates only that the "parties shall consult immediately in order to agree on the measures which should be taken for the common defense." *Consultation* among the SEATO signatories, then, and *not action*—either collective or unilateral—is all that it provides for in cases of insurgency. If this consultation should lead to a sufficient consensus, recommendations to the several signatory governments might result.

Indeed the Senate agreed to SEATO on the clear understanding that in situations other than open and armed attack from outside the treaty area, there would be no obligation to act. Despite an unqualified statement to this effect from Secretary Dulles during the hearings, several senators remained apprehensive over the insurgency or "subversion" clause in the treaty (Paragraph 2 of Article 4). They wanted to be sure that it could not be employed to draw the United States into the support of unpopular governments against broadly based political opposition, pointing out that this would hardly be compatible with America's own revolutionary heritage. To assure them on this point Dulles pledged: "If there is a revolutionary movement in Vietnam or Thailand we [the SEATO] allies would consult together as to what to do about it . . . but we have no undertaking to put it down; all we have is an undertaking to consult together as to what to do about it."

But the senators had not reckoned with the power of a President to define insurgency as outside aggression. In case of outside aggression the clause of SEATO that could be invoked (Paragraph 1 of Article 4) called not for mere *consultation* but for *action* on the part of the United States or any other party to the treaty, albeit action in accordance with the country's "constitutional progresses." Although this clause could not legitimately be construed as authorizing American intervention against insurgencies, it could be so utilized by a President willing to certify that the insurgency in question is in fact basically outside aggression. For such casuistry to succeed all that is required is an apathetic and poorly informed Congress. As the history of our Indochina involvement so eloquently testifies, the means of making an on-the-ground determination are almost exclusively in the hands of the President. It is *for* him as well as to him—not Congress—that the Foreign Service and CIA report, and it is unusual for them to provide him with reports that do not justify a course of action they know he is already determined to take. Unless Congress secures considerably greater help from outside sources than is normally the case (or provides itself with much more substantial means of its own) it will always find it difficult to contest assessments made by the executive branch.

President Nixon's recent statements warning Hanoi to refrain from aggressive military activity in Cambodia or else court "appropriate action" by the United States are, of course, addressed to an American as well as Vietnamese audience and must be regarded as an attempt to keep that option open.

It is not clear whether in order to shift public attention away from Watergate Mr. Nixon would welcome a well publicized confrontation with Congress over an issue of foreign policy such as would be presented by renewed bombing of Cambodia. But the fact remains that his own prestige in the conduct of international affairs is probably more immediately at hazard over Cambodia than with regard to any other country. Although Congress has hamstrung the President by denying him funds for any renewal of American bombing or ground action in Cambodia, it has not deprived him of whatever legitimacy SEATO can bestow on such a venture. The fact that he has not yet invoked the rationale of SEATO in Cambodia does not mean that he is not keeping it in reserve.

The protocol of the SEATO treaty covers Cambodia quite as much as it ever covered the southern half of Vietnam, and there is nothing to prevent the present Phnompenh regime from repudiating Sihanouk's renunciation of SEATO's protection for Cambodia and requesting US intervention. If President Nixon chose to grant the request he would need only to interpret the situation in Cambodia as one of "outside aggression" by the North Vietnamese in order to invoke SEATO. Would Congress then insist, as it has never done previously, that SEATO's stipulation that this be done by the United States "in accordance with its constitutional processes" obliges the President to secure the approval of a majority of the Senate, or would it simply, as in the past, be content with his consulting some of its members?

Because of the mounting strength of the Cambodian insurgents, President Nixon might well prefer to avoid a showdown with Congress over a resumption of bombing. For he must realize that whatever he does, there is a strong likelihood that the Phnompenh regime will fall by the end of the next dry season. Thus unless it should appear that divisions among the insurgents or other unforeseen factors seriouly impair the rebels' effectiveness and prospects, he may conclude that resumption of the bombing would be quite as futile at it was before. He might then prefer to sit back and accuse Congress of "losing Cambodia." But if factors internal to Cambodia should incline him to gamble upon a reentry of US military power, Congress is encouraging such a move by leaving the SEATO rationale available to him as justification. This danger should be reason enough for Congress to take prompt action to end our participation in that treaty.

Less minatory in an immediate sense, but equally worrisome in the longer term, is the possibility of the United States' being drawn via SEATO into a military intervention against an insurgency in Thailand. The US has been committed much more deeply to Thailand's defense against both outside powers and internal insurgency than many congressmen and the general public are aware. This commitment is ultimately tied to and crucially dependent upon a special reinterpretation of SEATO by executive action in the Kennedy administration that was never submitted to Congress for approval and that considerably increases the possibility for triggering American involvement. A joint communiqué by Secretary of State Rusk and Thailand's Foreign Minister Thanat Khoman on March 6, 1962, in effect "bilateralized" the SEATO agreement, asserting that there was an American obligation to come to Thailand's support, even if other SEATO signatories refused to go along.

The Nixon administration has been quite aware that Congress would probably balk at any attempt to conclude a normal bilateral defense treaty with Thailand. But so long as the United States remains in SEATO, the issue does not have to be so raised. Indeed it is in order to have in hand advance authorization for American assistance to Thailand against both external attack and local insurgency that the present administration is primarily interested in hanging on to SEATO.

Whether, as Nixon administration spokesmen have argued, the Rusk-Thanat agreement did not depart from the SEATO accord as originally understood, Bangkok clearly thinks it did and regards it as having added significantly to the American commitment. Thus early in the Nixon administration (May 21, 1969) Thanat Khoman, still Thailand's foreign minister, explained to his Thai audience that although according to the original SEATO charter "all decisions must be taken by unanimity," under his 1962 under-

standing with Secretary Rusk "even if the decision is not endorsed by all, any individual country or countries may take action even though there is no consensus. . . ."

If one yields to the administration's claim that a bilateralization of SEATO is not inconsistent with its actual terms, then it must be emphasized that this separate American-Thai interpretation could conceivably apply only to the section of the treaty pertaining to outside aggression. The SEATO language dealing with insurgency and subversion is too explicit to permit any such interpretation, for there the parties are called upon simply to *consult* "in order to agree on the measures which should be taken for the common defense." One would assume that anything so clearly collective could not be bilateralized. Yet the Rusk-Thanat communique of March 6, 1962 employs language, apparently lost on all but a few members of Congress, that Thai leaders believe does provide the basis for active US military support against any major insurgency in Thailand, as well as against outside aggression. The communique cites the case of Vietnam as an appropriate example of how under SEATO Thailand could rely on United States support against the threat of insurgency. This was certainly the interpretation of the Thai prime minister, Field Marshal Sarit, who announced just after the communique was signed that the United States had pledged aid to Thailand against indirect aggression—subversion or infiltration—"the same way it is doing in South Vietnam now." If members of Congress are confused by the seeming ambiguity of the American defense commitment to Thailand, *that* country's leaders are not.

Bangkok's initial anxiety after the President's enunciation of the Nixon Doctrine was quickly put to rest by his public statement in Bangkok on July 28, 1969. Pledging to maintain all existing American commitments to Thailand, Mr. Nixon went on to say, "The United States will stand proudly with Thailand against all of those who might threaten it from abroad, *or from within.*"

The Thai leaders were delighted. Their sentiments were echoed by the *Bangkok World* which promptly observed: "The inclusion of threats from 'within' is seen as a startling vote of confidence to a Thai nation cautious over the prospects of American involvement in future Southeast Asian problems," and later concluded in its lead editorial: "Mr. Nixon's statement . . . came as a surprise to Thai leaders fearing that his mission here was only to prepare the nation for the eventuality of the American disengagement . . . The Thai-U.S. relationship is . . . stronger now than at any time in days past." As was made evident by Vice President Agnew during his visit to Bangkok on May 17, 1972, the Nixon administration indicated no subsequent reservations about this pledge. By emphasizing that the United States "reaffirmed its willingness to honor its commitments" to Thailand under SEATO and under the Rusk-Thanat communiqué "as well as the assurances given by President Nixon," Agnew reinforced the Thai leadership's conviction that if any of their insurgencies become a serious threat they can count upon the United States to come to their rescue.

During the 11 years since the Rusk-Thanat communiqué was signed, Bangkok has been given abundant evidence of Washington's willingness to meet the expectations that it raised among the Thai leadership; even that part of the record disclosed in the heavily expurgated published hearings of the 1969 Symington committee makes this clear. Shortly before the 1962 communiqué was announced, the Kennedy administration made a commitment to Thailand's air defense by stationing a detachment of interceptor aircraft at Bangkok's Don Muong airport. In the spring of 1962, at a time of growing Thai concern over the situation in Laos, President Kennedy established a Military Assistance Command for Thailand, MACTHAI, and sent 10,000 marines and other ground personnel to Thailand to ensure fulfillment of U.S. obligations under SEATO and "to help ensure the territorial integrity of Thailand." (The move was also regarded by the Kennedy administration as useful in providing the U.S. with additional bargaining power in the ongoing international negotiations over Laos.) In 1964 the U.S. general commanding MACTHAI worked out contingency plans with the Bangkok government for American participation in Thailand's defense which were updated by further negotiations in August 1969. It has never been publicly divulged whether these plans center on countering a major insurgency, but presumably they do.

In any case, even the published parts of the Symington hearings disclose that by March 1966 the United States was directly involved in supporting Thai efforts to put down an insurgency. Though this dissident activity in northeastern Thailand was actually modest in scale, Bangkok appeared to be having difficulty in coping with it, and U.S. Ambassador Graham Martin requested Washington to send in helicopters. According to him, the 25 helicopters of the U.S. 606th Air Commando Squadron were under orders not to fire at the insurgents; but they were certainly intimately involved in Bangkok's efforts to suppress the rebels—ferrying Thai military personnel right up to the combat areas. This operation went on until late January 1967, at which time, Ambassador Martin states, Thai pilots took over the operation.

There have been no new Senate hearings on U.S. military support to Thailand comparable to those held by Senator Symington's subcommittee in November 1969, and thus relatively little has been made public concerning the Nixon administration's activities there. U.S. military advisers are now reported to total around 1,000, and U.S. Special Forces and CIA personnel (numbers not disclosed) are still engaged in helping the Thai army and police cope with insurgent activities, apparently with limited success.

As during Johnson's term, there has been a continuing campaign to depict all kinds of insurgent activities—even cattle rustling—as part of a Communist campaign directed and nourished by Hanoi, the Pathet Lao or Peking. But it remains clear that outside support is of marginal importance, and that the insurgencies are basically locally rooted and locally fueled. The minority peoples have real and serious grievances, and it has been Bangkok's discriminatory and often heavy-handed treatment of them that has been primarily responsible for provoking them into resistance. During the last few years insurgent activity among the Meo in the north and the Malays in the south has apparently become stronger, considerably greater than the older movement mounted in Northeast Thailand by dissident Thai. Bangkok has not been effective in its efforts to deal militarily with the insurgencies among the Meo and Malays, nor has it taken the political and economic measures necessary to placate these people. (Repeated military defeats in the north at the hands of the Meo and other minority tribal groups brought Bangkok in the fall of 1970 to turn over the policing and administration of extensive hill areas there to Chinese nationalist [Kuomintang] troops—remnants and offspring of forces that fled China two decades ago. This arrangement, endorsed by the United States government, has not been very effective. Most of the Chinese troops have been more interested in the opium trade than fighting the Meo, and when they have chosen to fight have usually fared poorly.)

In the meantime the United States during the past three administrations has built up a substantial vested interest in a massive complex of air bases in Thailand—an investment which ran to over $800 million in 1969 and probably totals well over $1 billion today. Despite an announced token withdrawal of United States personnel from Thailand, some 30,000 to 40,000 still remain.

Thus far insurgents in Thailand—though increasing in power and in the size of the areas they control—do not endanger the Bangkok government, nor have they yet seriously threatened our air bases or our personnel stationed in Thailand. But what if either or both of these situations should arise? On the basis of his past record what should one expect Richard Nixon to do? Will he assert that we have a clear-cut case of outside aggression and invoke the SEATO pact as justification for American intervention—at first presumably with the less controversial dimension of additional military advisers and special forces along with tactical air powers? Or will he simply repair to that formula that served him so well during the last years of United States military intervention in Vietnam—the duty of the President to protect American military personnel abroad? Or to strengthen his case in the face of probable congressional opposition will he do both?

SEATO, especially as permissive Congresses have allowed the executive branch to interpret that treaty, leaves the gate open for the President to launch military interventions in Thailand and Cambodia, and even in the Philippines. If Congress is serious about reasserting its responsibilities in foreign policy it must take preemptive action to deny the President scope for such initiatives by bringing American participation in SEATO to an end.

COSTLY CRISIS

Mr. FANNIN. Mr. President, I submit for the RECORD an article from a Wall Street Journal of last week entitled "Costly Crisis: Energy Lack Threatens Disruption, Slowdowns in American Economy." It points out very effectively that the implications of our energy crisis are serious and far-reaching. The Arab oil cutoff and the resultant shortage of oil and other fuels are predicted to initiate some nerve-racking readjustments in our economy. Scarcities will impact on the chemical, paper, aluminum, copper, and steel industries, on trucking concerns, on the automobile industry, on appliance makers, recreational vehicle manufacturers, and an extensive list of other concerns. Resulting financial effects stand to be considerable.

This article indicates that our economy is so interrelated that any new development is likely to affect multiple sectors like the first domino in a line toppling the entire row. When every provision of a bill such as S. 2589 will have such far reaching effects, how can we rush into approving them without giving ourselves the opportunity to thoroughly examine each one? The article to which I have been referring merely demonstrates the dimensions of our responsibility to the American people in insuring their economic future by providing them with a well thought out emergency bill. I urge my colleagues to give it their careful consideration, and ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

COSTLY CRISIS: ENERGY LACK THREATENS DISRUPTION, SLOWDOWNS IN AMERICAN ECONOMY

(By Charles J. Elia)

The country's energy shortage may have been only dimly perceived by most investors before the Middle East crisis erupted, but the cutoff of Arab oil to the United States is abruptly bringing the stock market face-to-face with future shock.

The full dimensions of what President Nixon officially labeled the "energy crisis" Wednesday night are still only roughly measurable, but the situation is bound to have a great impact on the economy.

"We are going to slow down the rate of economic growth in the U.S., period," asserts Pierre Rinfret, an economist who heads the New York consulting firm of Rinfret-Boston Associates. "There is an almost perfect correlation between available energy per capita, industrial production and the standard of living."

The Arab oil cutoff didn't produce the U.S. energy shortage; the shortage already existed. Indeed, it might have seemed to most investors that Arab oil wasn't so vital, since it accounted for only about 5% of the nation's total energy use.

But the Middle East—including non-Arab Iran, which hasn't joined the embargo of the U.S.—has been the only major source of the additional oil needed here to meet expanding energy requirements in recent years.

WHEN THE TANKERS STOP

So "the major impact (of the Arab oil cutoff) will be on growth," says Alan Greenspan of Townsend-Greenspan & Co., another economic consulting firm here. "What hasn't been recognized widely even now," Mr. Greenspan says, "is that the worst of the crunch hasn't happened yet. We'll feel that when the tankers carrying the oil stop arriving in the next several weeks."

Many economists aren't so gloomy. Some foresee, at most, a temporary slowdown. But many other analysts say that the implications for the economy are serious enough to shake many of the assumptions underlying stock-market investments. The way investors think about everything from roadside hamburger stands and amusement parks to basic industries, particularly automobiles, may be in for radical change, these analysts say.

Some analysts believe that the first stirrings of reappraisal appeared in the sharp stockmarket decline that began early last week. The Dow Jones industrial average, which had climbed to 987.06 from the 1973 low of 851.90 reached on Aug. 22, began a 73.98-point descent nine trading sessions ago, and stocks of such oil-dependent industries as the chemicals were among the biggest casualties. (Then came two days of gains, and the average closed yesterday at 932.65.)

SURPRISES LIKELY

The course of the stock market is expected by analysts to enter some surprising, if not downright nerve-racking, turns as the Arabs tighten the vise and the economy adjusts to shortages. Some companies, notably those connected with coal, nuclear power and oil outside the Arab lands, may benefit from the crisis. Here are some of the major negative considerations being pondered by securities analysts:

The Arab oil moves, if prolonged, could cause a recession in the U.S., according to a study by researchers at Arthur D. Little & Co., the Cambridge, Mass., consulting firm. The embargo, coupled with the indirect impact of the Arabs cutback on over-all oil production, could cause the gross national product of the U.S. to drop as much as 2% in real terms next year, the consulting firm estimates. The possible 2% drop contrasts with economists' earlier forecasts of a 2.5% real gain next year. The Little firm says a 2% decline in the GNP "could result in an unemployment rate of 6% to 7%." The unemployment rate last month was 4.5%.

Rising costs of all energy, particularly oil, are already filtering through the economy. Roy Moor, economist at A. G. Becker & Co., a Chicago securities firm, estimates that the consumer price index could rise 7% next year, rather than the 6% generally expected. "Oil gets into consumer prices in a whale of a way," he says, "and this practically guarantees a continued high inflation rate."

The implications of the Arab cutbacks for Japan and Western Europe, which are more dependent on crude-oil imports than the U.S. is, are "so horrendous that some resolution by early 1974 is essential," says Mr. Greenspan of Townsend-Greenspan. The Arthur Little study indicates that economic growth in those areas could fall to zero in 1974, from estimated 5% to 7% rates of growth. This could spell serious trouble for U.S. exports and for foreign earnings of multinational U.S. companies.

SCARCITIES ACCELERATED

In the United States, the Arab action and the fuel-conservation measures proposed by the President are intensifying pressures that were already under way, some analysts believe. Shortages of refined products (gasoline, heating oils, etc.) "now appear inevitable," says Charles T. Maxwell, energy specialist at Cyrus J. Lawrence & Co., New York securities firm. "They would probably have been evident in any case even without the cutoff of Arab oil," Mr. Maxwell says. "The Middle East crisis has acted to accelerate developments and bring about scarcities faster than would have otherwise occurred."

Such basic sectors as the chemical, paper, aluminum, copper and steel industries have been operating at full capacity this year and demand for their products continues to outstrip supply. Energy-related scarcities could disrupt their operations, some analysts say.

Chemicals, particularly dependent on refinery output for their raw materials, are among the most energy-intensive industries, and analysts expect them to be heavily affected by the present squeeze. Synthetic-fiber expansion planned by some of the major companies, for example, was predicated on refinery expansion by several major oil companies, and these plans, in turn, were based on expanded crude output expected from Arab producers. Such expansion plans now are threatened with indefinite delay, analysts say.

Industries heavily dependent on natural gas are already in a bind. With both fuel oil and natural gas in short supply, the copper industry "could experience significant production losses" if this winter is severe, says Peter Merner, analyst at the New York securities firm of L. F. Rothschild & Co. Many natural-gas supply contracts are "interruptible," he says, and even if oil is available, a switch from gas would sharply increase production costs because oil is more expensive.

Similarly, Mr. Merner says there is "a real question" about continued availability of natural gas to aluminum producers. Cost increases related to a force conversion from natural gas to other sources of power "could be dramatic," he adds. He believes that the aluminum industry could lose as much as 10% of its monthly production because of the energy problem.

Trucking, another industry heavily dependent on oil and gasoline, is one of the biggest imponderables for analysts. Trucking companies have been scrambling lately to assure a continued flow of fuel. Ryder System announced Wednesday that it had bought a small oil refinery. On the other hand, this scrambling may not succeed, in which case many shippers may switch to the railroads, which can carry more freight per unit of energy expended.

While the ultimate impact of fuel-conservation efforts isn't clear, analysts think that a radical change in the life styles and spending patterns is ahead in an economy that now envisions, among other things, curtailed business hours, lighting and gasoline consumption.

BLOW TO INDUSTRY?

The automobile industry may feel one of the more lasting blows, according to Al Nelson, analyst at Cyrus J. Lawrence & Co., the same firm where Mr. Maxwell has been predicting, Arabs or no, that gasoline rationing is highly likely by year's end or next spring. The two analysts believe that gasoline, which competes with heating oils and other products for its cut of each barrel of crude oil, will remain in short supply into 1976.

Mr. Maxwell sees some improvement after 1976 from a buildup of refinery capacity and development of nonpetroleum energy sources but doesn't expect supply and demand to approach balance until possibly 1980.

"This thing (the energy crisis) is of such massive proportions that it's out of the hands of the auto companies," Mr. Nelson says. "Spending patterns on automobiles will alter. Consumers' efforts to obtain better mileage will have the effect of reducing average weights of new cars sold in future years. This implies an accelerated move to smaller and lower-priced cars, as well as reductions in installation of optional devices."

Mr. Nelson estimates that a 50-m.p.h. speed limit as proposed by President Nixon, might improve mileage per gallon of gasoline by 5.5% but says that attempts to regulate speeds may not fully achieve the desired effect. "We think the gasoline situation will be at its worst in 1975–76 and we think auto stocks will remain unattractive," Mr. Nelson says.

The fuel-saving effort now under way could have implications for the stock market that go well beyond the impact of gasoline shortages on the auto makers. Here are some of the trends that could develop, in the opinion of the Lawrence analysts and others:

Major U.S. auto makers may be slow in meeting the demand for smaller, lighter cars as the consumer attempts to maintain his motoring patterns. Foreign car makers are expected to step up assembly and sale of their small cars in the U.S.

Domestic tire companies and auto-parts makers serving the new-car market will be hurt if the energy crisis brings fewer, smaller cars traveling fewer miles at lower speeds.

Fewer, shorter auto trips imply lower rates of growth for companies in some of the "growth" industries for whose stocks investors have been willing to pay a premium in recent years. These include motel and restaurant chains that have units on the interstate highway system or that otherwise depend on auto traffic; shopping centers, and the retail chains that are heavily represented in them; fast-food chains, and amusement parks and zoos.

Even where the actual earnings slowdown isn't dramatic, says one analyst, the lid on growth could reduce the price-to-earnings multiple that investors are willing to accord such companies. Car-leasing companies also could be adversely affected by changes in travel patterns.

Such leisure-time pursuits as boating, the use of recreational vehicles and the use of private aircraft might be curtailed by gasoline scarcity, with a dampening effect on the manufacturers.

Electric utility companies using natural gas as an energy source, along with utilities that don't have built-in rate increases to offset rising fuel costs, could face profit problems.

Appliance makers, already facing the prospect of reduced sales next year because of a drop in housing starts, could find demand for their products further squeezed. If households use less power, families may put off purchases of such nonessential appliances as airconditioners and clothes driers.

The jolt to household budgets resulting from higher energy costs and other inflationary pressures could mean reduced spending for such luxuries as air travel, cosmetics and personal services.

JUST A STRETCH-OUT?

Among those who don't believe that the implications of the energy crisis are so far-reaching is Mr. Moor of A. B. Becker. "If we have a bad winter and demand stays high," he says, "we could have a slowdown in the rate of growth of industrial production, but I think it can be said that a slowdown would be temporary. It would just stretch out production. In a way I think that's favorable because it would give us stronger production in late 1974."

Meanwhile, the energy crisis and the Arab actions have spurred plans for faster development of alternative sources of power, even though they may not be of great immediate help in alleviating shortages.

This could prove a boon to oil, steel, copper and coal companies, which own large reserves of coal in the U.S. Analysts also expect makers of coal-mining equipment and earthmoving machinery to benefit, as well as coal-burner manufacturers, coal-hauling railroads and rail-equipment makers, And companies with uranium reserves have again become attractive to crisis-minded investors as the nation seeks to speed development of nuclear power systems.

The most notable market beneficiaries of the energy crisis, even before the Arab action, continue to be favored by analysts for future growth. These include oil and gas companies with domestic reserves or reserves in areas untouched by oil politics, such as the North Sea and Alaska.

The market has also favored, and analysts expect continued interest in, stocks of offshore drillers, oil service and equipment companies, pipeline builders, compressor and pump makers, engineering firms connected with oil development, and refinery builders.

ERIC SEVAREID ON THE FUEL SHORTAGE

Mr. BROCK. Mr. President, we have an energy crisis upon us, one that could ultimately prove to be a problem as large as any to face us in the past 30 years. As we discuss cutting back on our consumption of energy, a move that at this moment, appears to be a necessity, we must also consider the effects of such actions on the total economy. What I am really trying to say is the rationing may create a new monster, similar to the economic controls which have been placed on the American people.

Recently, Eric Sevareid of CBS, in his commentary of Monday, November 12, 1973, took this point for consideration, and I would ask that those comments, by unanimous consent be printed in the RECORD.

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

ERIC SEVAREID ON THE ENERGY SHORTAGE

The ramifications of the energy shortage are just beginning to seep through, and it's like the weather, politics and television. Every person has his own notions about what should have been done, what should now be done, who's to blame, what will happen. Everybody's an expert, which means nobody is, this reporter included. So, what follows are purely personal conjectures, haphazard and disjointed.

Yesterday we drove along Maryland and Viriginia highways at the President's requested 50-mile-an-hour maximum. A good 85 percent of the traffic whizzed by us. At a guess, two things were going through the drivers' heads: (a) Let the other fellow save the gas; (b) I'll slow down when the pinch gets real. And, because of this, the pinch will get real that much sooner and last that much longer. Conclusion: volunteerism will help a little, but just a little; only law enforced will do what has to be done. This seems to be confirmed by a three-months' effort in the state of Oregon. Where the state government had direct power over its own cars, buildings and facilities, energy savings were fairly substantial. Savings in the areas of volunteer sacrifice by the public were scant.

The American people seem to be in the state of mind of soldiers headed for war. Each one thinks he won't be hit. Maybe this is nature's secret device for perpetuation of the species. It is also, at bottom, why people let wars happen. It's also why we're likely to have a social war of the fiercest acrimony this winter, especially if the winter is cold. People will move from blaming the Arabs to blaming the oil companies to blaming the power companies, then the guy down the street, then ultimately of course, the government, until Watergate could become one of the President's minor problems. Because what's now involved is not just a sacrifice of some pleasure and comforts, but the most radical readjustment of social thought and behavior since the big war.

The American economy is not a piece of architecture. You can't close off one part of it, leaving the others untouched. It's a closely knitted garment. Skip one stitch or pull one out, and a big part of the whole garment starts to unravel. Energy is basic. A cutback in energy means cutbacks in production, in sales, in services, in jobs, in personal and corporate income, in tax collections, a rise in welfare payments, rise in government deficits. In other words, recession, and at a very high-cost-of-living level.

The challenge facing Nixon at the end of '73 is not as dramatically stark as the challenge that faced Roosevelt at the end of '41, but it looks to be the closest thing to it that we've seen. It will be relieved to the extent that new laws and regulations are enforced and to the extent that every single citizen tightens his own belt.

THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL HONORS SENATOR SAM J. ERVIN, JR.

Mr. MANSFIELD. Mr. President, on October 12, 1973, his alma mater, the University of North Carolina at Chapel Hill, honored our colleague, Senator SAM J. ERVIN, Jr., by bestowing upon him its Distinguished Alumnus Award in recognition of his outstanding contributions to mankind through the field of public service.

I ask unanimous consent that a copy of this award and the citation accompanying it be printed in the RECORD.

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

The University of North Carolina at Chapel Hill in recognition of outstanding contributions to mankind through the field of public service the faculty and trustees of the University are honored to bestow the Distinguished Alumnus Award upon Samuel James Ervin, Jr.

October 12, 1973.

HENRY A. FOSCUE,
Chairman of the Board of Trustees.
N. FEREBEE TAYLOR,
Chancellor.
HENRY C. BOREN,
Secretary of the Faculty.

CITATION

Samuel James Ervin, Jr., is a "country lawyer" who has become one of the most respected United States Senators. He took his A.B. degree here in 1917. He served in the United States Army in Europe in the First World War, where he was twice wounded, twice cited for gallantry, and several times decorated. In 1922 he was graduated from the Harvard Law School, entered law practice in Morganton, and was elected to his first term in the North Carolina General Assembly. He became a County Court judge in 1935 and Superior Court judge in 1937. In 1948 he was named Associate Justice of the North Carolina Supreme Court. Appointed to the United States Senate in 1954 by Governor William B. Umstead, he has been returned to the post in four subsequent elections by the people of North Carolina. Senator Ervin has earned a reputation in the Congress as an indefatigable defender of individual rights and of the Bill of Rights itself. Former Senator B. Everett Jordan has called him "the constitutional conscience of the Senate." He himself once said, "I think all freedom is always in danger." As chairman of the Senate Select Committee, he has recently become a kind of folk hero. It seems certain that any political structure which turns up a "Senator Sam" is bound to be sound. This University conferred upon Senator Ervin an honorary degree in 1951 and is pleased to honor him again in 1973 with this Distinguished Alumnus Award.

Mr. MANSFIELD. Mr. President, this award was made to Senator ERVIN and four other alumni of the University of North Carolina at Chapel Hill on University Day, October 12, 1973, when the University celebrated the 180th anniversary of the laying of the cornerstone of the Old East Building, the first building erected upon its campus.

At that time, Senator ERVIN delivered an address entitled "Light and Liberty," which is the motto appearing upon the corporate seal of the University of North Carolina at Chapel Hill.

I ask unanimous consent that a copy of this address be printed at this point in the body of the RECORD.

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

LIGHT AND LIBERTY

One hundred and eighty years ago, i.e., on October 12, 1793, a goodly group of dedicated North Carolinians gathered near this spot to witness the formal creation of the University of North Carolina at Chapel Hill.

They saw the Grand Lodge of Freemasons of North Carolina led by their handsome Grand Master, William Richardson Davie, lay the cornerstone of the University's first building, Old East, and heard the eloquent orator of the day, Dr. Samuel E. McCorkle, head of the famous Zion-Parnassus School near Salisbury, predict that the University would be a citadel of learning and liberty.

Those of us who are privileged to call her Alma Mater believe that in an institutional sense The University of North Carolina at Chapel Hill is a composite of the minds, the hearts, and the spirits of all those who brought her into being and all those who

have loved, nourished, or served her during the ensuing generations.

The appointed and accepted mission of the University is of transcendent importance. Her mission harmonizes with the ideal expressed in the Latin phrase, "Lux et Libertas," which adorns her corporate seal. Stated simply, her mission is to diffuse light and proclaim liberty.

It is not strange that this should be so. Before she came into being as a living reality the University was a dream in the minds and the hearts of North Carolinians who entertaned the abiding conviction that light and liberty are inseparable.

The dream was in the minds and the hearts of the representatives of the freedom of North Carolina who assembled in convention at Halifax in December, 1776, and promulgated a Constitution securing to the free people of North Carolina the great rights wrung by lovers of liberty from arbitrary power in a contest of ages and pledging that the newly born State would encourage and promote "all useful learning * * * in one or more universities."

The dream was in the minds and the hearts of the delegates who met in convention at Hillsboro in July, 1788, and resolved that North Carolina should not ratify the Constitution of the United States until she was assured that a bill of rights would be added to that instrument "asserting and securing against encroachment the great principles of civil and religious liberty, and the unalienable rights of the people."

The dream was in the minds and the hearts of the legislators of North Carolina who granted to the University on December 11, 1789, a charter empowering her to teach the arts and the sciences as the State's own institution of higher learning.

Furthermore, the dream was in the minds and the hearts of the fathers and mothers of North Carolina who craved for their sons the opportunity of making of themselves everything God gave them the possibility of becoming.

When he and the University were being attacked by some of the clergy and laity of the State because he had courageously and successfully opposed their demand that the North Carolina General Assembly of 1925 enact a statute outlawing the teaching of evolution in state-supported schools, Dr. Harry Woodburn Chase, President of the University, made a statement to University faculty and students which Dr. Louis Round Wilson rightly esteems one of the great papers of the University.

Dr. Chase stated at that time that "when men have attempted to curtail thought to hold it in bondage to authority, they have achieved only sterility and stagnation"; that "if men are to be educated men, they must learn to look the world squarely in the face, to respect facts, to weigh evidence, to follow truth wherever it may lead"; and that in consequence the University owes to its students and its public an unending obligation to be intellectually free and intellectually honest and to teach what is known and to explore what is unknown.

The University diffuses light by teaching these things in one way or another to those who come to her in quest of an education.

You must learn always. Man has made this inquiry in all ages: What personal attainment should I make my chief goal in life? The Bible answers this question in this way: "Wisdom is the principal thing: therefore get wisdom: and with all the getting get understanding." When the Lord appeared to Solomon in a dream by night at Gibeon and told Solomon that he could have whatever he most desired, Solomon did not choose fame or gold or pleasure or power. He begged God for an understanding heart and thereby proved himself to be earth's wisest son.

The assertion that God made man just a little lower than the angels finds vindication in the facts that God gave man a brain and placed him in surroundings whose mysteries present a constant challenge to the unceasing employment of that brain. No man can truly claim that he has as certain possession of learning as of a book or other article of personal property. The world of the mind is an illimitable land whose boundaries are as vast as the universe itself, and thought is calling us at all times to the undiscovered countries lying beyond the next visible range of mountains.

The soothsayers of ancient India exalted an unending search for knowledge in this cryptic phrase: When thou attainest an hundred years, cease to learn. The psalmist of old prayed: "So teach us to number our days that we may apply our hearts unto wisdom."

Let nothing on this side of the grave put an end to your pursuit of learning. Fortunate, indeed, will you be if you will fondly embrace the belief that knowledge is the most lasting wealth and if you will woo her with such constancy that you will be able to say in modesty and in truth at sunset each day: I am wiser today than I was yesterday. While you may fear that knowledge will become proud because she learns so much, you may be sure that wisdom will always remain humble because she knows so little.

Let books be your friends, for, by so doing, you can summon to your fireside in seasons of loneliness the choice spirits of all the ages. Observe mankind through the eyes of charity, for, by so doing, you will discover anew the oft forgotten fact that earth is peopled with many gallant souls. Study nature, and walk at times in solitude beneath the starry heavens, for, by so doing, you will absorb the great lesson that God is infinite and that your life is just a little beat within the heart of time. Cling to the ancient landmarks of truth, but be ever ready to test the soundness of a new idea. Accept whatever your mind finds to be true, and whatever your conscience determines to be right, and whatever your heart declares to be noble, even though your act in so doing may drive a hoary prejudice from its throne. And, above all things, meditate often upon the words and deeds of Him who died on Calvary for, by so doing, "ye shall know the truth, and the truth shall make you free."

Let your life forever harbor at least an echo of Ulysses' inspiring challenge:

"Come, my friends,
'Tis not too late to seek a newer world.
Push off, and sitting well in order smite
The sounding furrows: for my purpose holds
To sail beyond the sunset, and the paths
Of all the western stars, until I die."

The University proclaims these things in respect to liberty: Life's most precious value, liberty, was bought for us by the blood, sweat, tears, and prayers of multitudes of men and women.

While it is an indivisible whole, liberty does reveal itself in a fourfold guise as political liberty, economic liberty, religious liberty, and intellectual liberty.

The men and women who made America believed that governments derive their just powers from the consent of the governed. Moreover, they had absorbed the lessons taught by the history of the struggle of the people against arbitrary power for the right to be free from tyranny. Hence, they comprehended some eternal truths respecting men and government.

They knew that those who are entrusted with powers of government are susceptible to the disease of tyrants, which George Washington rightly diagnosed in his Farewell Address as "the love of power and proneness to abuse it." For this reason, they realized that the powers of public officers should be defined by laws which they as well as the people are obligated to obey.

They also knew the truth subsequently embodied by Daniel Webster in his aphorism: "Whatever government is not a government of laws is despotism, let it be called what it may."

For this reason, they realized that liberty cannot exist except under a government of laws, that is, a government in which the conduct of the people is controlled by certain, constant, and uniform laws rather than by the arbitrary, uncertain, and inconstant wills of men, and in which the laws accord to the people as much liberty as the commonweal permits.

They likewise knew that Thomas Hobbs had proclaimed an unalterable principle when he said: "Freedom is political power divided into small fragments."

For this reason, they believed that the powers of government should be divided between the federal government and the states, and that the powers of the federal government should be diffused among its legislative, executive, and judicial branches.

To preserve for themselves and their posterity the blessings of liberty, they framed a Constitution which created a government of laws conforming to these eternal truths, and which they intended to last for the ages and to constitute a law for rulers and people alike at all times and under all circumstances.

The men and women who made America did not learn economics sitting at the feet of those who promise "abundance for all by robbing selected Peter to pay collective Paul."

They acquire their knowledge in the hard school of experience, which is the most dependable of teachers. As a consequence, they had the hardihood to accept the economic truths plainly visible to all human beings who possess both the capacity and the willingness to accept reality.

They knew that earth yields nothing to man except the product of his own labor. They knew that Adam's curse is an unchanging and unchangeable law of life: "In the sweat of thy face shalt thou eat bread til thou return unto the ground."

They knew that man has but one choice in respect to this immutable economic law, and that such choice is simply this: Whether the bread which he must eat in the sweat of his face shall be the bread of freedom or the bread of bondage.

They knew this unalterable decree of the Creator of the universe: Free men cannot be induced to produce goods or services of value unless they are permitted to retain a fair share of the fruits of their labor for themselves, their families, and the causes they hold dear.

They knew, moreover, that man can be free only if he is willing to accept responsibility for his own life.

They also knew the truth embodied in Michelangelo's assertion: "It is only well with me when I have a chisel in my hand."

As a consequence of these things, the valiant folk who made America realized not only that economic liberty is an absolutely necessary attribute of a free society, but also that it most effectively encourages them to make of themselves everything God gave them any possibility of becoming.

The most heart-rending story of history is that of man's struggle against civil and ecclesiastical tyranny for the simple privilege of bowing his own knees before his own God in his own way. As Chief Justice Walter P. Stacy of the North Carolina Supreme Court so well declared in one of the great judicial opinions of all time, "men contend more furiously over the road to heaven, which they cannot see, than over their visible walks on earth," and history records "the tragic fact that men have gone to war and

cut each other's throats because they could not agree as to what was to become of them after their throats were cut."

The men and women who gave freedom to America were devout souls. They had learned some of the sorrowful facts of the spiritual life of man in the bitter crucible of experience. Most of them dissented from the doctrines and usages of the churches established by law in the lands of their origins. They were denied the right to worship God in their own ways. They were compelled to pay tithes for the support and propagation of religious opinions which they disbelieved. They had their marriages annulled and their children adjudged illegitimate for daring to speak their marriage vows before ministers of their own faiths rather than before clergymen of the established churches.

But these cruel oppressions merely steeled their convictions that religion is a private matter between man and his God; that no human authority should undertake to control or interfere with the rights of conscience; and that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical."

For these reasons, our ancestors staked the very existence of America as a free nation upon the principle that "all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences," and the corollary that this natural and unalienable right can be secured only if church and state are kept separate.

While I divide freedom into parts for ease of discussion, the indivisibleness of freedom becomes manifest when we realize that intellectual freedom is inextricably intertwined with political and religious freedom, and that the full enjoyment of political, religious and intellectual freedom is dependent upon economic freedom.

The greatest exponent of intellectual freedom among the men and women who made America a living reality was Thomas Jefferson, who said: "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."

His contemporaries shared Jefferson's abhorrence of tyranny over the mind, and for this reason they adopted the First Amendment. When this amendment is read in conjunction with the Due Process Clause of the Fourteenth Amendment, it compels the governments of the states as well as the federal government to extend to every human being within our borders these intellectual, political, and religious freedoms:

1. Freedom to think whatever he pleases.

2. Freedom to speak and publish his thoughts with impunity, provided what he says or publishes is not obscene and does not falsely slander or libel another, or tend to obstruct the courts in their administration of justice, or create a clear and present danger that it will incite others to commit crimes.

3. Freedom to associate with others to accomplish any lawful objective.

4. Freedom to meet peaceably with others for consultation and protest, and to petition those invested with powers of government for redress of grievances, real or imagined.

5. Freedom to entertain such religious beliefs as appeal to his conscience, to practice his religious beliefs in any form of worship not injurious to the rights of others, to endeavor by peaceful persuasion to convert others to his religious beliefs, and to be exempt from taxation for the support of any institution which teaches religion of any character.

These freedoms are exercisable by fools as well as by wise men, by agnostics or atheists as well as by the devout, by those who defy our Constitution and laws as well as by those who conform to them, and by those who hate our country as well as by those who love it.

We cannot overmagnify the value of these freedoms. This is so because they are the fundamental freedoms which make it possible for America to endure as a free society.

To be sure, the exercise of these freedoms may require us to put up with a lot of intellectual rubbish. But our country has nothing to fear from them, however much they may be abused, as long as it leaves truth free to combat error.

Liberty is hard to win, but easy to lose. She stands in constant peril at the hands of those who doubt the wisdom of America's commitment to liberty and who fear the exercise of liberty by others.

If we are to keep liberty we must remember that the price of her keeping is eternal vigilance, and that God grants liberty only to those who love her and are always ready to guard and defend her.

I love the University. I love the University because she is my Alma Mater. I love the University because she taught me much beauty and truth in the days of my youth. Over and above these things, however, I love the University because she has diffused light and proclaimed liberty to her students and her state throughout the generations.

I close with this prayer: May she continue to do so as long as time lasts.

GENERAL AVIATION FACT SHEET ON THE NATIONWIDE FUEL CRISIS

Mr. DOMINICK. Mr. President, general aviation is fulfilling an ever-increasing transportation role in both this country and worldwide. Thousands of communities lack adequate transportation service by any method; air, rail or road. There exists in these communities a priority need for the continual availability of the readily convenient transportation service to the rest of the Nation, which general aviation provides.

General aviation public air transportation is expanding at an unprecedented rate. Charter and air taxi flying is increasing substantially. In 1972 the number of persons using the commuter airlines increased by 12 percent, and cargo use by 18 percent. An estimated 70 million people are carried in intercity travel, and 60 percent of those carried are between airports without airline service.

The U.S. Postal Service has recognized the flexibility of general aviation in transporting the mail at convenient times and outside areas not served by the scheduled carriers. As a result, Post Office Department use of general aviation has increased 40 percent.

The legislative action to authorize the President to immediately undertake specific action to conserve fuel will require a number of energy exercises and the development of contingency plans for equitable fuel distribution. Of particular concern is that proper attention be given to general aviation in this nationwide crisis.

As part of the total air transportation network, general aviation plays an important role. Seventy percent of general aviation flying is for business and commercial purposes. This includes business flying, agricultural flying, emergency, commuter and air taxi, law enforcement, and other industrial and commercial applications. A recent survey by the National Business Aircraft Association showed 20 percent of business flying connects with scheduled airlines.

General aviation will obviously be affected by fuel shortages. Stringent conservation measures are being and must be taken by the industry. General aviation balances the air transportation system by serving all of the Nation's airports, including 95 percent which do not have scheduled airlines service. General aviation's vital role must be preserved in the allocation formulas under this bill. It is my fervent hope that the fine work carried out by general aviation be fully recognized.

Mr. President, I ask for unanimous consent that a summary sheet supplied to me by representatives of general aviation be printed in the RECORD.

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

The general aviation industry associations are vigorously formulating voluntary energy conservation measures to assist in alleviating the nationwide fuel shortage. This includes encouraging people to use scheduled airline service when the trip can be made as conveniently. However, general aviation fulfills a vital transportation role and meets an important need not provided by scheduled carriers. This transportation function must be considered in any allocation program.

70% of general aviation flying is for business and commercial purposes.

General aviation carries an estimated one-third (70 million) of the inter-city passengers in air transportation.

60% of general aviation passengers are between airports with no airline service.

General aviation forms a flexible transportation system serving all the nation's 12,000 airports, and is important in balancing the nation's transportation needs.

In addition, we are also presenting these facts about general aviation's actual fuel consumption based on 1972 figures from the American Petroleum Institute:

General aviation consumes .7 of 1% of fuel used in transportation.

Total gasoline consumption in the United States averaged 6,400,000 barrels per day. General aviation consumed .4 of 1%.

Total daily consumption of aviation kerosene—airline, general aviation, and military—is 1,045,000 barrels per day; the general aviation share is only 37,000 barrels per day, or 3.7%.

I trust that full consideration will be given to these factors.

NEEDED ECONOMY IN DEFENSE SPENDING

Mr. CRANSTON. Mr. President, the Senate passed in October a $20.9 billion authorization bill for military weapons procurement, research, and development that is $1 billion less than the amount President Nixon requested.

But if a majority of the Senate had gone along with five commendable economy amendments that were proposed during debate, the total cost would have been cut $2.7 billion more.

The Senate also passed a $1.2 billion foreign assistance bill this week. It was the lowest authorization for foreign aid in U.S. history, and $250 million under what the White House asked.

But once again if a minority of the Senate had voted the right way, still another $217 million would have been slashed from the bill.

Those additional cuts—13 percent in weapons and 18 percent in foreign economic aid—would have helped curb do-

mestic inflation, strengthened our economy, and enhanced our ability to defend ourselves and our allies.

Only three economy measures succeeded in getting Senate approval.

One of them was an amendment to the military authorization bill that I introduced with Senator HUBERT H. HUMPHREY. It calls for the withdrawal of 110,000 U.S. troops from foreign soil by December 31, 1975, 40,000 of whom must be returned to this country by next June 30.

I estimate that the troop pullback will cut $1.1 billion from our balance-of-payments deficit. Some $4.9 billion of our present deficit is already directly linked to U.S. military spending abroad.

It also will substantially reduce the $30 billion a year we currently spend to support 564,000 U.S. troops in 1,963 military bases and installations in 34 foreign countries around the world.

Our allies are far, far more capable of defending themselves now than they were at the close of World War II—thanks in no small part to our help.

The gross national product of the European NATO countries now totals $831.9 billion compared with $46.9 billion in 1951. Around the world, the United States has spent more than $108 billion in foreign economic aid programs just since 1946.

These hard economic facts of life were faced up to by the amendment introduced by Senators HENRY JACKSON and SAM NUNN, both members of the Armed Services Committee. Senator JACKSON is chairman of two important subcommittees.

Under their amendment, our NATO allies will have to pick up a larger share of the cost of their defense or we will reduce our forces in Europe to offset our balance of payments deficit.

The only economy amendment we successfully attached to the foreign aid bill was introduced by Senator FRANK CHURCH. It would return to the U.S. Treasury more than $250 million a year in repayments on foreign loans made by the Agency for International Development. At present these repayments go into a revolving fund and are used to make additional loans.

I also supported two other economy amendments on foreign aid. One called for a flat cut of $217 million; the other, for a cut of $134 million. Both failed.

Like most Senators, I voted for final passage of both the military procurement and foreign assistance measures even though some of the economy amendments I favored were not added.

This foreign aid bill mandates new procedures that hopefully will insure that aid really reaches the people who need help. If the hunger and poverty in the world are not dealt with, worldwide chaos may be the all-too-likely consequence. A sound, sensible foreign aid program is not only humane, but a matter of our own self-interest.

I also obviously was not about to vote against all weapons procurement and against all military research and development even though some of the programs are unnecessary or unnecessarily costly. I certainly do not favor unilateral disarmament.

Indeed, I support a theory enunciated by Defense Secretary James Schlesinger for greater military mobility in transporting troops. And I favor continued weaponry research and development and the maintenance of a strong three-pronged, nuclear defense—underground missiles, manned bombers—including the B-1 program—and Poseidon-equipped submarines—so that we can defend ourselves and our allies in the event of attack.

My concern for a properly balanced defense posture also led me to vote for an amendment that increased the authorization for the F-14 Navy fighter. The amendment was introduced by Senator HOWARD CANNON, chairman of the Armed Services Subcommittee on Tactical Air Power. It restored $495.5 million to the F-14 development program that had been deleted pending contract negotiations. The negotiations now appear to be nearing settlement.

Here is a rundown of the economy amendments that would have cut another $2,688,600,000 from the Senate-passed bill had they also been approved:

A flat reduction of $500 million. A $500 million reduction would have brought the total authorization figure down to $20.4 billion—the amount originally recommended by the Armed Services Committee.

Elimination of $657 million for another nuclear-powered aircraft carrier—CVN-70. We already have three nuclear-powered carriers; the Soviet Union and China have none. Even after we retire four of our outdated conventional carriers, we will have 12 fully modern attack carriers—far and away the most formidable carrier fleet in the world. The estimated price tag for the fourth CVN-70 is $972 million, which will make it the most expensive ship ever built. The cutback amendment was introduced by Senator DICK CLARK.

Elimination of $885.4 million which the administration requested to speed development of the Trident nuclear missile submarine as a replacement for the present Polaris-Poseidon system. The Trident is proceeding on an orderly construction schedule calling for $614.6 million this fiscal year. There is no sound economic or military reason to rush into spending still another $885.4 million this year. The antispeedup amendment had been introduced by Senator THOMAS J. MCINTYRE, chairman of the Armed Services Subcommittee on Research and Development.

Elimination of $194.2 million for the SAM-D, a new surface-to-air missile system. The proposed antiaircraft system is seven times more expensive than the improved Hawk missile which it is designed to replace. It is so unnecessary that even our European allies, whom the new system is supposed to defend, say it is much too sophisticated and expensive. Every time a SAM-D fires a missile it will cost $1.3 million. The economy amendment had been introduced by Senator BIRCH BAYH.

Elimination of $452 million in military aid for South Vietnam and Laos. There would still have been $500 million left in the budget for military aid to those two governments. After all the billions we have already given them, that would have been enough in my opinion; way more than enough.

The $2.7 billion that will be spent unnecessarily on these projects will add little to our real security. But apparently we cannot get out of the habit of spending money as though we are still the world's policeman. We are not. We probably never should have tried to play that game.

Vietnam should have taught us that playing world policeman is too costly—too costly in lives and too costly in money. Besides, it does not work. No single nation can, or should try, to do it.

NUCLEAR POWER: BETTER TO SPLIT BORON THAN URANIUM

Mr. GRAVEL. Mr. President, on November 1, the AEC's Lawrence Livermore Laboratory announced the possibility of splitting light boron atoms instead of heavy uranium and plutonium atoms to release energy. The process—using techniques of both fission and fusion technologies—would produce about 100,000 times fewer radioactive poisons than today's nuclear powerplants or the liquid metal fast breeder.

Before the Senate authorizes another 5 billion tax dollars for filthy nuclear fission, we should insist on examining clean nuclear energy technologies and safe, certain-to-work, solar energy conversion.

Mr. President, I ask unanimous consent that excerpts from the Livermore announcement be printed in the RECORD.

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

ENERGY FROM BORON

(By Jeffrey Garberson, Lawrence Livermore Lab, Nov. 1, 1973)

A surprising nuclear reaction, a fundamental departure from conventional concepts of fission and fusion, which produces virtually no lingering radioactivity and thus could be the basis for eventual "super-clean" power plants, was reported today.

The new reaction is the proton fissioning of boron-11, the most common form of the light element, with the release of copious energy. It was described by Thomas A. Weaver, a physicist at the Lawrence Livermore Laboratory in California, to a meeting of the American Physical Society this morning in Philadelphia.

The reaction contradicts the widespread belief that fission releases energy only in heavy elements like uranium and plutonium, and in this sense is radically new.

It is "super-clean" in that the products of the fission are three non-radioactive, electrically charged particles (helium nuclei) more than 99.9 percent of the time, according to Weaver. Total energy of the particles is 8.68 million electron volts (MeV).

In principle, power plants based on the boron fission have the potential to operate with 100,000 times fewer radioactive byproducts than conventional fission plants, he said.

Conceptually, the reaction could be triggered in tiny droplets of boron-hydrogen fuel squeezed and heated enormously (to temperatures of 3 billion ° C.) by powerful beams of laser light.

This is significantly hotter than required for less "exotic" reactions and therefore more difficult to achieve. Weaver said it appears

that the fuel would have to be compressed to ultra-high density and that major advances in technology would be necessary to do this.

"The difficulty of utilizing this reaction in a power plant should not be minimized," he said, "but the almost total absence of radioactive byproducts makes it potentially so attractive that the challenge is worth pursuing."

Another attraction, he said, is the virtual inexhaustibility of boron-11, which occurs abundantly in the ocean and is found in dry lake beds as borax.

The reaction was proposed as a basis for harnessing nuclear energy by Lowell L. Wood, Lawrence Livermore Laboratory physicist, 1½ years ago.

Colleagues with Weaver and Wood in the theoretical and experimental efforts have been G. B. Zimmerman, H. F. Lutz, I. D. Procter and W. Bartolini at Livermore and T. A. Tombrello and M. Dwarkanath at Cal Tech.

FISSION OR FUSION?

The proton-boron-11 reaction has been dubbed "thermonuclear fission"—a solecism—because it so closely resembles the thermonuclear processes in which light elements are fused and release energy.

Although it is generally true that when light nuclei are fused an excess of energy is released from the resulting heavier nucleus, there are exceptions. These have to do with the tendency of the helium nucleus—also called an alpha particle, consisting of two protons and two neutrons—to act as a nuclear building block.

In light nuclei that are one proton shy of consisting of integral numbers of helium nuclei, the interaction of a proton at the proper energy causes the original to split energetically into its building blocks, the several helium nuclei.

Light nuclei having this characteristic include lithium-7 (proton fissions into two helium nuclei), boron-11 (fissions to three heliums), nitrogen-15 (four heliums) and fluorine-19 (five). Of these, boron-11 produces the highest net energy output under projected reactor conditions.

Depending on the configuration of a hypothetical "thermonuclear fission" reactor, this energy could be converted directly to electricity by catching the charged particles on electrodes, setting up an electrical potential, or through magnetohydrodynamics (MHD), Weaver said.

Using MHD, a pulse of energy from a reacting droplet of proton-boron fuel would expand a pre-existing magnetic field across a carefully designed electrical conductor. It is a fundamental principle of physics that the moving field will induce an electrical current in the conductor. The field will collapse back across the conductor when the pulse has passed, generating a current in the opposite direction (i.e., alternating current) and preparing for the next pulse.

MHD techniques have been experimentally demonstrated on a small scale, but have not been developed to the point of large scale practicality.

LASERS

The laser concept for initiating the thermonuclear fission reaction has derived from relatively recent research, conducted principally in this country under the auspices of the Atomic Energy Commission at Livermore and at the Los Alamos Scientific Laboratory.

Multiple beams of extremely powerful laser light (hundreds of millions of times more intense than the light at the surface of the sun) would focus simultaneously on a falling droplet or frozen pellet of fuel. The superheated surface would ablate, or burn off, at speeds of thousands of miles per second. It can be envisioned as a spherical rocket with the "exhaust" burning outwards and the equal and opposite reaction imploding or squeezing the fuel to a density and pressure sufficient for thermonuclear burn.

The concept is in the early stage of exploration. Its achievement is an enormous technical and scientific challenge. If it proves feasible, lasers to be used in a reactor would require a combination of characteristics well beyond present capabilities.

The laser was invented in 1960. Today, two kinds of lasers are considered candidates to eventually test laser implosion theories: The glass disc laser (under development in this country principally at Livermore) and the carbon dioxide laser (Los Alamos).

A prototype design for a neodymium glass laser system to test the implosion concept was derived using the giant computational facility at Livermore and announced last June. The Laboratory has begun work on a facility to build and house the system, which would consist of twelve 1,000 joule lasers each about 40 yards long. A joule of energy will lift one pound almost one foot; in the case of this laser, however, this energy is released in less than one thousandth of a millionth of a second.

Expressed another way, 10 such lasers would focus 100 million megawatts of energy on a tiny pellet of thermonuclear fuel—more energy, during the brief laser pulses, than the world's installed power supply.

CATASTROPHIC ILLNESS AND S. 444

Mr. HARTKE. Mr. President, one major illness can bankrupt almost any family. Hospital and doctor costs are high, and the costs of recovering from a serious illness are astronomical. The result can be financial and emotional disaster to any family forced to pay the costs of major illness.

All of this is supported by a study released this past August by Cancer Care, Inc., and the National Cancer Foundation. Earlier this year, I introduced the Health Care Insurance Act (S. 444). One of the major proposals of that bill is to provide every American with adequate insurance protection against the costs of catastrophic illnesses.

Mr. President, I ask unanimous consent that an article from the New York Times which discusses the financial tragedy of catastrophic illness be printed in the RECORD.

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

[From the New York Times, Aug. 15, 1973]

WHEN SEVERE ILLNESS LEAVES FAMILY LIFE IN SHAMBLES

(By Enid Nemy)

A catastrophic illness can reduce a middle-income family to poverty in less than two years, according to a study released today by Cancer Care, Inc., and the National Cancer Foundation, Inc.

The study, based on questionnaires completed by 115 families, comprising 448 individuals, all living within a 50-mile radius of New York City, indicated that the average cost of such an illness was $21,718.

Eighty-four percent of the families reported costs exceeding $10,000 and 30 percent had expenses between $25,000 and $50,000. Only 39 percent of the respondents received medical or health insurance payments in excess of $10,000. The period between the onset of illness and death was less than two years in almost half the cases studied.

With median income reported at $8,000, most families attempted to pay additional costs with family savings, life insurance, Social Security, pensions, gifts from relatives, loans, dividends, mortgages and sales of assets. Some were driven to the verge of bankruptcy.

The report, entitled The Impact, Costs and Consequences of Catastrophic Illness on Patients and Families, is careful to note that its information relates only to persons suffering from advanced cancer. However, it adds, "the overall impact of all illnesses appropriately described as catastrophic may be similar in kind, regardless of the disease."

STUDY'S PURPOSES

One of the purposes of the study, which was conducted within the last year, was to document the need to include coverage of such unexpected and burdensome costs in national health insurance plans, such as those proposed in Congress in recent years. It was also hoped that the study would encourage organizations and individuals to consider insurance provisions that would offset some of the financial drain.

The report notes, as well, that there are few social agencies in the country that financially aid the middle-income group, and that this group does not qualify for assistance from public or governmentally supported agencies.

The items of cost—among them drugs, patient transportation, medical homemaker, nurse, equipment, laboratory tests, surgical dressings, transfusions—varied between families. Hospital, doctor and burial expenses were, however, reported by all and the three totaled 71 per cent of over-all costs. In one case, hospital charges soared to $45,000, and 73 per cent of the families had hospital bills exceeding $5,000.

LIST OF HARDSHIPS

The illness, and its attendant costs, affected the lives of every member of the family. Among the hardships were houses sold and life-time savings depleted, early retirement, change of career and loss of promotional opportunities for immediate family members, many of whom were forced to rearrange hours to help care for the stricken person.

Most families reported cutbacks in food, clothing and health care for adults and children and elimination of vacations, children's camps and plans for purchases such as cars.

Emotional, psychiatric and adjustment problems were faced by 76 per cent of the families. The effects of close contact by children with the sick person were often described as "devastating." The children became confused by changes in personality, frightened by physical deterioration and insecure about their own lives and relations with other people.

Sometimes children became resentful toward an ill father and jealous because the mother spent so much time with him. In a number of cases, schoolwork suffered, with formerly good students making failing grades. Some refused to go to school and became recluses, staying in their rooms alone as much as possible. Others clung to the well parent, frightened of being alone. Some children became compulsive eaters and others began delinquent acts, with thefts at school and drinking.

Some adults expressed a feeling of guilt at being uncomfortable in the sick room. Some were torn between giving major attention to the sick spouse or to the children and feared that both were neglected. There was resentment that a hopeless, killing disease should last so long, with no way to release the patient from pain and the family from the strain of watching a slow death.

"A time of horror and helplessness" was the description used by one family. Another said simply, "it was a very real experience in hell."

SIGNIFICANT ENERGY RESOURCE: WINDPOWER

Mr. GRAVEL. Mr. President, to make clean nuclear energy with fusion or boron

fission, and to achieve a net energy gain in the process, will require some technical breakthroughs and therefore some time.

By contrast, there are some simple techniques for converting solar energy to useful fuel and power which we could start using now.

The conversion of windpower to electricity is one solar energy technology which could be producing significant quantities of clean energy at competitive prices within 4 years, according to recent papers by civil engineering Prof. William Heronemus at the University of Massachusetts, Amherst 01002. Others doing windpower work are Professor Sweeney at Princeton, Professor Hewson at Oregon State University, Grumman Aerospace, and NASA.

To those who believe that windpower is a trivial source of energy, Professor Heronemus points out that the total energy available to this country from the winds via practical windpower systems could total at least 1 trillion kilowatt-hours per year. That amount represents two-thirds of our total 1970 electric power consumption, and about one-quarter of our total alleged requirements for electric power even in 1985.

States like Montana, the Dakotas, Wyoming, Kansas, and Oklahoma, says Professor Heronemus, could even produce more wind-generated electricity than they need locally, and they could export that clean energy to Chicago, for instance.

DOING THE WHOLE JOB WITH WIND

In October 1973 Professor Heronemus prepared a paper for the Wisconsin State Senate, in particular, Senator Douglas LaFollette. In it, he proposed a windpower system for Wisconsin, complete with hydrogen storage subsystems, which could take care of all the projected electric power growth between now and 1990 in the eastern 60 percent of the State, known as power supply area 13 in the 1970 National Power Survey.

Because the paper is 45 pages in length, I can touch on only the highlights.

The system could provide 65 billion kilowatt-hours per year by extracting about one-quarter of 1 percent of the constantly renewed kinetic energy in the Wisconsin wind.

Some of the wind stations would be on land, and others floating in Lake Michigan or Superior. Some would be as large as 7 megawatts and others as small as 20 kilowatts, supplying power to a home or school directly. The smaller units could be erected:

In pastures or even tilled fields, their space requirement at ground level making almost no demand upon the primary use of the land.

He said:

The smaller stations could be erected along fence rows. The larger units could have their towers configured to straddle secondary roads.

Then there are the larger arrays carrying as many as fifty of the 20-kilowatt units in structural grids, riding on turntable or carousel foundations.

The most productive large wind stations will be of two types. One is long, tall, double-banked systems comprising very large numbers of small wind generators carried on rotatable subassemblies in kingpost and wire rope suspension systems. The concept is very similar to a continuing suspension bridge, towers at one-half mile intervals rising to a peak height of 800 feet above the ground. The twelves subassemblies of 20 wind generators each, carried in each one-half mile bank of this system, are driven in train so that the wheels always face the prevailing wind . . . The kingposts can be designed to straddle a typical secondary road.

The second type would be very tall floating stations comprising large numbers of small wind generators, 20-kilowatts or somewhat larger, carried in an open structural grid which rises up from a semi-submerged afloat platform . . . The afloat station is anchored with an energy transmitting umbilical, and the energy is sent via collecting cable to the shore . . .

THE NEED FOR MASS-PRODUCTION

As for costs, Professor Heronemus points out that mass-production and automation have made it possible to sell automobile engines for $3 per kilowatt, and that every part of a windpower system is suitable for assembly-line and automated production, too. He makes his cost-assumptions explicit:

There is a very excellent probability that three-bladed 20-kilowatt wind generators should be able to be sold for about $110 per kilowatt/electrical, 1972 dollars, including a 15% profit, when produced by the tens or hundreds of thousands of units which would be required for meaningful wind-power systems. And there is excellent reason to believe that U.S. manufacturing ingenuity and 1973 materials and technology plus competition could reduce that $110 per kWe substantially. The most perfectly shaped blades imaginable for these machines should be producible in matched die molding operations that would move their life expectancy up over 40 years and their cost down, way down . . .

The cost of motors and generators [for alternating current] are estimated conservatively at $20 per kilowatt; large motors and generators cost as little as $16 per kilowatt.

The electrolyzer is costed at $25 per kilowatt input. Electrolyzers purchased today would cost at least $50 per kWe in. It will require at least 3 years of development and several millions of dollars to achieve both the $25 per kW and the 18.6 kilowatt-hours in per-pound hydrogen out which is needed here, but the goal-numbers are easily defended by those competent in this technology.

The cost of supports, towers, and structures are all based on very careful and detailed design of those features required for the Off Shore Windpower System . . . —See "Power from the Offshore Winds" by William Heronemus, September 1972; Proceedings of the 8th Annual Conference of the Marine Technology Society, Washington, D.C.

Hydrogen-air fuel cells are costed at $100 per kWe output; for this, large but entirely feasible development programs are required.

CLEAN ELECTRIC POWER AT 3½ CENTS PER KILOWATT-HOUR

For one station, located 25 miles offshore in Lake Michigan, and producing 9.8 million kilowatt hours of delivered electricity per year an average transmission distance of 200 miles, Heronemus' calculations are as follows:

200 20-kilowatt generators	$440,000
Floating supports, tower, tether, anchor	200,000
Motors, 2167 kW at $20	43,340
Generators, 2167 kW at $20	43,340
Fuel-cells, 2167 kW at $100	216,700
Pressure-balanced underwater storage, hydrogen, 1,092,000 kWh at $0.22	240,240
Electrolyzers, (4000–630) at $25	84,250
Total cost	1,268,000

Note: Peak load=2167 kilowatts.

Heronemus assigns a fixed charge rate of 15.5 percent, the sum of the following:

	Percent
Cost of money	8.50
Depreciation	0.95
Interim replacement	0.50
Insurance	0.25
Total taxes	5.30
	15.50

Revenue required per kilowatt hour delivered on demand from that station would be 34.6 mills, or $0.0346, calculated as follows and assuming 98 percent of all wind generators will be operable whenever the wind blows:

(a) Fixed charges, generation:

$$\frac{(15.5\%)\ ($1{,}268{,}000)}{(0.98)\ (9{,}854{,}000\ \text{kWh})} = \$0.0203 \text{ or } 20.3 \text{ mills/kWh}$$

(b) Additional cost per kWh to bring each of those kWh out of the Lake to the overhead hi line, an average distance of 25 miles. (This is estimated to be 15 times as great as the cost would be for overhead hvdc transmission: =2.5 mills/kWh.

(c) Additional cost for owning the hydrogen pipe line joining the Storage Site S–1 to the fuel cell reconversion station =0.4 mills/kWh.

(d) Additional cost for owning the 20 mile long kWh underwater cable tying Point de Tour to Door County =0.2 mills/kWh.

(e) Operation & Maintenance, Generation 1.0 mills/kWh.

(f) Total average cost of a kWh at the entrance to the transmission system =24.4 mills/kWh.

(g) Cost for an average of 100 miles transmission via overhead hvdc line, all new: 0.2 mills/kWh.

(h) Total average cost per kWh delivered to any Wisconsin Distribution Yard, on demand, =24.6 mills/kWh.

(i) Average additional cost for distribution, G&A profit =10.0 mills/kWh.

(j) Total average revenue required per kWh delivered on demand: 34.6 mills/kWh.

If the hydrogen were sold for direct use as a fuel, instead of converting it back to electricity via fuel-cells, Heronemus has calculated that wind-generated hydrogen would be competitive in the Great Lakes market when home heating oil costs 28 cents per gallon, which might happen this winter, or when natural gas sells for $3.36 per million British thermal units, perhaps as early as 1975.

WHO WILL BREAK THE VICIOUS CIRCLE?

I would like to quote also from the concluding remarks of the same paper and from the covering letter with which it was sent to the Wisconsin Senate:

There is good reason to believe that as many as 238 billion kilowatt hours per year of kinetic energy could be extracted from the winds over Wisconsin and parts of Lake Superior and Lake Michigan via wind generators without modifying weather. If about one-fourth of that amount were extracted, 65.2 billion kWh per year by 1990, it would suffice for the entire 1975 to 1990 projected growth in electricity demand in that portion

of Wisconsin included in Power Supply Area 13.

65.2 billion kWh per year of electricity is a prodigious amount of electricity. The projected total 1990 market of 91.3 billion kWh per year in Area 13 is almost four times today's consumption. Exactly where all this additional electricity is to be consumed in an area of which the great majority is rural or near-wilderness is not clearly understood by the man-in-the-street, or perhaps better, the man-in-the-woods.

The inhabitants of Power Supply Area 13 have a revolutionary change in their way of life projected for them by the year 1990; it is perhaps a question worth asking as to how many of them have any understanding of all this at all, let alone a *desire* for all of this to happen to them.

But be that as it may, *all* of that electricity could be provided from solar energy via the natural collection processes which create and sustain the winds. There need be *no* additional fossil-fuel fired, or uranium fueled, central power plants constructed for Power Supply Area 13 beyond 1978 if the consumers wanted it that way.

The cost of wind-power produced electricity is dominated by fixed charges associated primarily with cost of capital and taxes. The costs estimated herein were based on a fixed charge rate of 15.5%, higher than customarily found in Wisconsin. The great magic of paying full market cost for capital to permit private ownership of electrical utilities, then levying significant taxes on them in attempt to take away much of their gain, is not understood by all men. . . .

If the proposed wind-power system were to be created and operated by the citizen-owned Wisconsin State Power Authority, the fixed charge rate could probably be 9% or 9.5%, and the estimated cost of electricity would drop from the weighted average value of 31.33 mills per kWh down to about 25 mills per kWh on demand. . . .

Wisconsin is blessed with a remarkably huge natural resource, wind-power. Wisconsin could also be amongst the first to make a genuine and self-helping contribution to the change-over to solar energy processes, the ultimate need of man if he is to survive on this planet.

I can point out what could be accomplished with solar driven wind-power systems, but I can do nothing toward making the promise come true. There is no windpower industry to which I can direct you. There is scarcely any funded R&D effort whose results can help you. And there will be neither unless there is a strong statement of support backed by voter power.

My cost estimates are based on what I know could happen if there were a large-scale windpower industry—and those estimates require a large market if they are to be true. No electric utility has yet shown the desire to use windpower; therefore no possible market for hardware exists. Until there is at least a good prospective market, the industry will not be created. . . .

But if the voters of Wisconsin insist on adoption of windpower and other solar energy processes, then the things I have reported can be possible.

Mr. President, I refuse to believe that Americans will sit passively through a 10-year energy shortage while clean, safe solar-energy technologies like windpower are ignored by the powers that be.

AMERICAN VETERANS COMMITTEE

Mr. HARTKE. Mr. President, the American Veterans Committee held its 29th National Convention last June in Atlantic City. The American Veterans Committee has been very concerned about assisting all veterans to be completely reintegrated into civilian life had has vigorously labored for the enactment of legislation to provide educational and health benefits for veterans.

As chairman of the Veterans' Affairs Committee, I am honored that this organization presented me with its 1973 Service to Veterans Award. I wish to acknowledge that the legislative accomplishments of the committee in aiding America's veterans are largely because of the full cooperation and assistance I have always received from my distinguished colleagues on that committee.

Among the many resolutions passed by the delegates were a number specifically addressed to meeting the needs of our Nation's 29 million veterans and their 66 million dependents.

Mr. President, I believe their resolutions will be of interest to my colleagues and ask unanimous consent that these resolutions be printed in the RECORD.

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

PLATFORM OF THE AMERICAN VETERANS COMMITTEE

VETERANS AND ARMED FORCES AFFAIRS

The American Veterans Committee has constantly reiterated, since its founding, its fundamental belief that rehabilitation and integration of veterans into the community is the proper scope and purpose of a veterans program. The achievement of economic security for veterans through sound economic planning for all citizens rather than through special grants or favors to veterans is basic AVC policy.

1. Compensation

For many years, AVC has pointed out the need for a thorough review and reappraisal of this Nation's policies on veterans as follows:

1. We oppose bonuses and general pensions as being class legislation and unrelated to the real needs of individual veterans and tending to set veterans apart from their fellow citizens.

In the matter of benefits, two basic standards should be applied.

a) For death or disability incurred in military service: Are the benefits sufficient to provide a decent standard of living for the veteran, his family or survivors?

b) For all veterans: Are the benefits so designed as to enable a readjustment from military service to civilian life with a minimum economic loss?

Since benefits are a Federal responsibility, uniform standards of administration and compensation should be applied nationally without regard to race, creed, color, sex, or national origin.

2. Reserve programs

The world we live in, with its emphasis on speed of operation and technical superiority, demands standing Armed Forces of sufficient size, training and equipment and organization to be effective immediately for defense and counter attack. It is apparent that the Regular Armed Forces must remain our first line of defense. They must be of sufficient size and mobility for deployment anywhere on the globe within a minimum of time so that we may continue to provide, when necessary, those forces needed for collective security under our international obligation in peripheral conflicts occurring in the strategic localities of the world.

AVC believes that the National Guard is ill-fitted to serve both roles which it is currently called upon to play. One role is that of assisting civil authorities in the United States in peace-time. Forces suited for that role should primarily consist of military police, possible infantry, with some supporting units (medical, signal, QM, etc.). The other role is that of forming a part of our highly complex and sophisticated Armed Forces with guided missiles, high mobility, heavy weapons and requirements for intensive technical training.

AVC regrets that the steps taken to integrate the National Guard have, so far, been far from adequate. While an office has been established in the National Guard Bureau to deal with equal opportunities, neither the staff nor the influence of that office are sufficient for the purpose.

Regrettably, while the percentage of minority group members in the regular Armed Forces is and remains relatively high, the percentage in the National Guard is low and has remained low despite certain recruiting efforts. We cannot afford to have a polarization within the Armed Forces as between the National Guard on one hand and the Regulars on the other. While the domestic peace-time tasks which the National Guard is called upon to perform tend to involve minority group civilian populations, the troops involved should not present the appearance of an army of occupation.

While a National Guard remains a part of the structure of our Armed Forces, incentives should be provided so that a larger number of minority group personnel with active duty experience will choose to enter and remain in the National Guard.

AVC is opposed to any policy whereby the Armed Forces award discharges other than honorable to reserve personnel based upon the political or other activities in which these individuals may participate following separation from active service under the draft.

We believe that the conditions of discharge should be based solely upon the military activity and efficiency of the reservists.

3. Benefit dollar

AVC believes that provision should be made to maintain automatically the purchasing power of the benefit dollar and upward adjustments be made annually in accordance with the Bureau of Labor Statistics, Consumer Price Index.

4. Civil service

AVC believes that veterans point preference in the civil service be limited to the initial appointment only, and that no person should receive a position unless fully qualified to perform the duties involved.

We oppose the principle of granting absolute preference to veterans in state and local civil service.

5. GI bill

AVC applauds the passage of a permanent G.I. Bill of Rights as a responsible means of enabling servicemen and women to return to civilian life with facility and ease at the end of their service and become useful and productive members of their communities. We also applaud the recent passage of legislation improving the benefits provided through the G.I. Bill of Rights.

However, we feel that benefits are not yet in line with the World War II and Korean War G.I. Bills and the current cost of living. Unfortunately, many existing programs remain unavailable to veterans because of the financial stress they now entail, or are available only at great sacrifice. This is particularly true in the area of educational programs.

AVC urges the Congress to further adjust benefits to match current costs of living and education.

The G.I. Bill of Rights should be administered in such manner as to guarantee the absence of discrimination.

6. VA hospitalization

AVC urges that treatment of nonservice-connected disabilities in VA hospitals be con-

tinued on a space-available basis, but that such treatment be charged at the full cost, if a patient has the means to pay for such service; certificates that a veteran is unable to pay should be investigated thoroughly to determine the true ability to meet the cost of hospitalization. Further that terms of coverage of all prepaid medical associations, plans and companies be amended by action of the legislatures, supervisory bodies or membership, so as to provide payment to VA hospitals for nonservice-connected treatment on the same basis as payment to private voluntary and public hospitals.

7. Unification

AVC notes with satisfaction that the process of unification of the Armed Forces has been making progress. AVC commends the actions hitherto taken in this regard and urges that the Department of Defense continue these efforts vigorously.

8. Discrimination—foreign and domestic

We maintain that no assignment of any military personnel should be made whether within the United States or overseas, for consideration on grounds of color, religion, ancestry or national origin.

Our goal is to insure that no member or employee of the Armed Forces, and no dependents of such person shall be subject to discriminatory treatment, on or off base within the United States or outside the United States, on the grounds of color, religion, ancestry or national origin, and that the power, including the economic power, of the United States be consciously used to further this objective.

9. Information service

We believe that the service orintation programs should be made adequate to fully acquaint every person entering armed services of all the rights, privileges, and benefits he and his family are entitled to as a result of his service in the Armed Forces.

10. Jurisdiction over ex-servicemen and civilians accompanying the Armed Forces overseas

We believe that the ex-servicemen, military dependents, and civilians accompanying the armed forces abroad should not escape punishment for serious offenses committed while in such status.

11. Naturalization of military personnel

AVC notes that legislation has been enacted which expedites the naturalization process of servicemen and exservicemen and which allows noncitizen widows of servicemen who die while on active duty to be naturalized without penalizing them for the death of their husbands.

The problem of aliens in the armed services being sent overseas before their naturalization is complete, even though no prior period of residence is required, persists. AVC urges that, either, following the precedent set in former Section 702 of the Nationality Act of 1940, provision be made for such persons to be naturalized while outside the United States, or that the services adopt a ruling whereby service personnel in process of Naturalization, who are not themselves contributing to the delays involved, will not be sent overseas until the naturalization process is complete.

RESOLUTION ON THE DRAFT

AVC feels that at the age of 18 everyone, male and female, be required to register with his or her local draft board to fulfill a 6-year military or alternate obligation subject to current classification and exemptions that are now being carried out by the draft board and that AVC during the coming year work on a plan of how this can be implemented.

RESOLUTION ON MILITARY EXPENDITURES AND DOMESTIC NEEDS

It is well established that the needs of our domestic economy are so critical that they cannot be met at the existing level of federal expenditures. The problems of pollution, hunger, poverty, living conditions in our cities and rural areas, public safety, and other domestic needs, require massive infusion of federal funds not available in the present budget.

Our inflated military budget has taken badly needed public funds from our domestic programs. AVC believes that the present military establishment can be cut, especially our Forces stationed in Bases throughout the world, without sacrificing our National Security, and that the requirements of domestic programs should have at least as high a priority as our military requirements.

We therefore urge:

That the military budget be substantially cut and such funds be used in domestic programs.

That any savings from a cut-back in Vietnam expenditures be used for domestic rather than be transferred to other military purposes.

That we actively pursue the SALT talks and any savings resulting from an arms limitation treaty be diverted to domestic needs.

That a more effective scrutiny be given new and untried weapons systems which would put a heavy financial strain on the defense budget in future years, and that funds not be used to bail out defense contractors facing insolvency.

That significant cuts be made in the size of our armed forces and supporting civilian personnel especially in our forces stationed in bases throughout the world without impairing our national security.

RESOLUTION ON MILITARY JUSTICE

AVC favors revision of the Uniform Code of Military Justice to take the court-martial system out of the line of command. AVC generally favors such legislation.

RESOLUTION ON ADMINISTRATIVE DISCHARGES

AVC is gravely concerned for the thousands of ex-servicemen who have been and who continue to be returned to civilian life, stigmatized by less than honorable discharges.

AVC believes that a study should be instituted to determine whether the present discharge categories (Honorable, General, Undesirable, Bad Conduct and Dishonorable) should be retained.

Under the current system, AVC strongly urges that before an individual is given an Undesirable discharge, he be awarded full legal assistance and complete constitutional protections.

AVC urged DoD to adopt regulations and policies and, if necessary, to seek legislation to strengthen and improve the Discharge Review Boards and the Boards for the Correction of Military Records, which changes should be directed toward simplifying and expediting the review process.

Under current law, ex-servicemen who have obtained Honorable or General Discharges are eligible for all VA benefits, and those who have obtained Dishonorable Discharges are not so eligible. Those who have obtained Undesirable or Bad Conduct Discharges may or may not obtain such benefits, depending upon an administrative decision by the Veterans Administration. AVC has found that the Veterans Administration has exercised its discretion in an exceedingly narrow and restrictive manner, thus depriving many ex-servicemen of benefits for which they would otherwise be eligible. AVC calls for greater understanding and compassion on the part of those charged with exercising the Administrator's discretion, and for interpretations which will exclude only the most heinous cases from veterans benefits. If the VA persists in such practices, then AVC calls for corrective congressional action to redefine the V.A.'s discretionary powers.

In the meantime, AVC calls classification of the "General Discharge under Honorable Conditions" as the mildest form of punitive discharge, not to be awarded except after hearing, rather than as an alternative form of Honorable Discharge, within the discretion of the authority responsible for discharging the individual concerned. The Department of Defense's contention that the possession of a General Discharge does not handicap an individual has not been borne out by the facts.

RESOLUTION ON LEGAL ASSISTANCE PROGRAM FOR MILITARY PERSONNEL

Whereas the 1971 and 1972 National Conventions of the American Veterans Committee have endorsed the Pilot Legal Assistance Program of the Armed Forces, whereby Judge Advocate General Officers may undertake to represent lower-ranking enlisted personnel in civilian legal matters arising in the courts of the communities in which such enlisted personnel are stationed.

Whereas the Armed Services are continuing the Legal Assistance Program on an expanded test basis.

Now therefore the 1973 Convention of the American Veterans Committee continues to support and to endorse the expanded test program for Legal Assistance being conducted by the Armed Forces.

RESOLUTION ON ATROCITIES

AVC deeply and strongly feels that indiscriminate bombing in Cambodia comes under the heading of "atrocities" as against legitimate warfare necessity.

RESOLUTION ON RELIGIOUS FREEDOM

AVC supports the principle of freedom of religion in the armed forces. Religious observance should be neither denied nor compelled, nor exploited for non-religious purposes.

AVC recognizes the propriety of providing chaplains and chapels, because military personnel who desire to worship may not otherwise have the opportunity to do so.

AVC hails the Supreme Court ruling prohibiting compulsory chapel attendance at the service academies and continues to oppose the use of chaplains to indoctrinate service personnel on military, political, "moral," and religious matters.

RESOLUTION ON CIVIL RIGHTS AND EQUAL OPPORTUNITY IN THE ARMED FORCES

The American Veterans Committee has a record unique among veterans organizations, of concern for racial justice and equal opportunity in the armed forces, a record which has extended from early support for President Truman's orders to integrate the regular Army in the late 1940's to early and public support for the use of the off-limits

AVC has watched, with growing concern, as racial polarization, reflected in the reports of the Render mission to Europe in the Report of the Task Force on the Administration of Military Justice in the Armed Forces, dated Novermber 30, 1972, and in the racial incidents reported aboard certain ships of the Navy, has apparently greatly increased in the past few years.

AVC is aware of the efforts which have been made by successive incumbents in the position of Deputy Assistant Secretary of Defense for Equal Opportunity, in their respective brief incumbencies, to stem the tide and to create a real equality of opportunity. Unfortunately, AVC is also aware of the degree to which the staff of that office is few in number and overworked and of its relative lack of "clout."

AVC is also aware of the efforts which have recently been made by the Department of Defense, including the creation of a Race Relations Institute and increasing counseling efforts throughout the military services. AVC regrets that these efforts are not yet sufficiently well funded or effective.

AVC believes that the following portions of prior resolutions on this subject are still applicable today:

1. AVC reminds those concerned with military-related costs that the cost of racial friction (lost man-hours, reduced combat effectiveness, added cost of burdens on the military justice and military confinement systems, lower efficiency by those alienated) is many times greater than the cost of a Civil Rights staff large enough, well funded enough, and sufficiently well backed to do an effective job.

2. Urges the Secretary of Defense to strengthen the Office of Civil Rights, Department of Defense, in personnel and in funds to the point at which it will have a real impact.

3. Points out that among reserve and National Guard personnel with the obligation or the opportunity to serve short tours of active duty, are many with particular expertise in the civil rights area and urges that these skills be better utilized.

4. Recalls, that AVC has, throughout its history, worked closely with the Department of Defense in the civil rights area, on projects such as the tour of Southern military bases by AVC leaders in 1960 and the Audit of the National Guard undertaken in 1963.

5. Offers whatever services it can render in this area to the Department of Defense.

Following meetings with the staff of the Office of the Deputy Assistant Secretary of Defense for Equal Opportunity, AVC has certain suggestions to offer. These include:

1. That the racial/ethnic statistics being gathered by that Office utilize categories which are compatible with the racial/ethnic statistics being gathered by civil rights/equal opportunity staffs of other agencies of government.

2. That liaison between the DoD open housing effort and the efforts of HUD to enforce the open housing provisions of Title VIII of the Civil Rights Act of 1968 be improved, so that housing discrimination against military personnel can be effectively eliminated.

3. On June 10, 1968, DoD decided that, whereas payments to military personnel under CHAMPUS were not covered by Title VI of the Civil Rights Act of 1964, CHAMPUS payments would not be made for medical services rendered by medical facilities which discriminated. AVC urges DoD to consider anew whether similar reasoning cannot be applied to the housing allowances currently paid to military personnel—not to pay such allowances where the benefits will flow to landlords who discriminate in violation of Title VIII of the Civil Rights Act of 1968.

RESOLUTION ON NAMING OF VA HOSPITAL

AVC supports the bill introduced by Congressman Bingham to rename the VA Hospital in Jackson, Mississippi as the Medgar Evers Hospital.

RESOLUTION ON NONRECRUITING IN THE MILITARY MEDICARE PROGRAM

While AVC was greatly encouraged by the decision of June 10, 1968 of the Department of Defense to coordinate its efforts in achieving non-discrimination in the Military Medicare (CHAMPUS) Program with the Title VI enforcement effort in medical facilities being conducted by the Office of Civil Rights at HEW.

AVC regrets that the plans for coordination have not been implemented (except for barring CHAMPUS payments to some eight hospitals for so long as they had been cut off from Medicare programs because of Title VI of the Civil Rights Act), due to the failure of the Department of Defense to authorize a very minor item of reimbursement to HEW, and

Calls upon the Department of Defense to implement its policy and to launch coordination effort so long delayed.

We regret that, despite the passage of *five* years since the decision of 1968, the policy has not been implemented.

We call on the Secretary of Defense to inform us by when we can expect progress in this area.

RESOLUTION ON ABORTION IN MILITARY HOSPITALS

The Supreme Court of the United States has recently enunciated criteria for determining constitutionally protected abortions. AVC urges that therapeutic abortions be permitted in all United States military hospitals consistent with those standards and without regard to any variations in applicable state laws. The rights of persons in military service and their families should be uniform.

We further endorse the principle that abortion should be a matter strictly between the woman patient and her physician. Any other position denies women the right to control their own bodies and physicians the right to practice medicine according to their professional standards.

RESOLUTION ON BETTER COORDINATION BETWEEN THE VA AND OTHER GOVERNMENT HOSPITAL SYSTEMS

The United State Government currently operates six separate hospital systems: Army, Navy and Air Force (operated by Department of Defense), Public Health Service and Indian (operated by DHEW) and the Veterans Administration.

AVC has a long history of favoring rationalization of government processes. AVC believes that federal decisions to build hospitals, to open and close its hospitals, and to set up specialized medical, surgical and psychiatric programs should not be made system-by-system. While we do not, at present, insist on unifying all hospital systems, there should be comprehensive planning, much more cross-utilization and rationalization.

In addition we ask that the secretaries responsible for these systems undertake studies on the feasibility of contracting with civilian hospitals for services to selected beneficiaries.

RESOLUTION ON THE MILITARY AND THE EQUAL RIGHTS OF WOMEN

AVC strongly supports adoption of the Equal Rights Amendment.

AVC calls for the immediate elimination of all customs, regulations, practices and policies in the military departments which perpetrate discrimination based upon sex.

RESOLUTION ON VETERANS BENEFITS AMENDMENTS

AVC favors the following amendments to Veterans Benefit legislation:

(1) An increase in education benefits to parity, in terms of 1972 cost-of-living and cost-of-education dollars, with the benefits given World War II veterans;

(2) Permanent legislation providing for automatic cost-of-living and cost-of-education adjustments, with a formula similar to that which adjusts military and civil service retirement pay;

(3) Strengthening the PREP program, and overcoming the particular hurdles faced by servicemen's participation therein;

(4) Making it possible for veterans to attend college-preparatory or remedial programs without reducing the duration of their entitlement, and without requiring 25 clock hours a week;

(5) Initiating a VA work-study program which would allow veterans to be hired at prevailing wages;

(6) Tightening standards for approval of correspondence schools, including requiring equitable tuition refund policies;

(7) Reducing clock-hour requirements for attendance at non-profit community and vocational schools;

(8) Making NSLI Trust Funds available as a revolving fund to finance veterans educational loans;

(9) Veterans educational assistance allowance should be amended to provide a system of direct payments to institutions of higher education for costs of tuition, books, and fees to supplement the subsistence allowance of veterans.

(10) Expanding outreach programs on a contract basis, with adequate safeguards against boondoggles.

(11) Entitlement provision for veterans benefits should be extended beyond the present 36 months of entitlement.

(12) The period of entitlement be extended beyond the present limit of 8 years.

(13) A provision for prompt payment of educational benefits be enacted.

(14) The General Accounting Office (GAO) commence an immediate review of the following areas:

(a) vocational and technical schools

(b) correspondence schools

(c) VA Housing loan programs and policies, and

(d) VA outreach and work-study programs in order to assist the VA and Congress toward improving services for the Vietnam Era veterans.

RESOLUTION ON YOUNGER MILITARY RETIREES

AVC is concerned about personnel retired from the armed forces after 20 years' service, but below age 60. After a score of years of service—active and reserve—such individuals are placed in limbo until they reach age of 60, at which time their pension begins, and they acquire the privileges which are usually associated with retired military status. AVC believes that the honorable completion of 20 years of service should entitle these younger retirees at least to an I.D. card which would authorize them the same 'fringe benefits' (PX, commissary, travel, etc.) at minimal expense to the government, as older retirees.

RESOLUTION ON DRUGS IN THE MILITARY

AVC is concerned about the problem of drug abuse by servicemen and veterans. Estimates of the seriousness of the problem vary, but we cannot be sanguine about any amount of drug abuse. Drug use and abuse involve medical, psychiatric and social issues as well as issues of military management, morale, and discipline but do not constitute legitimate acts of individual social or political protest. A rational approach to the drug issue requires distinctions between addiction and experimental or occasional use and intermediate degrees of drug abuse; distinction between hard and soft drug use; and determinations of need for separation and type of separation on an individual basis.

AVC favors treatment for servicemen using drugs while on active duty. In many cases, servicemen, if treated promptly, can be returned to useful service with their units. Those who are discharged with a drug problem should have medical help, from both the Veterans Administration and private agencies contracted for by the Veterans Administration.

AVC favors imaginative programs and research and the use of non-military and non-governmental agencies for treatment of veterans whenever needed.

AVC opposes automatic less-than-honorable discharges for drug use. In each individual case, careful consideration should be given to the serviceman's actual contributions to his service versus his actions to the detriment of that service. Also, the discharge review process should determine whether adequate treatment and rehabilitation have been accomplished.

AVC opposes the use of information obtained from servicemen who have volunteered for treatment against those very servicemen.

AVC opposes misuse of medical records and unreasonable breach of medical confidentiality.

AVC believes the United States must insist on cooperation by foreign powers to control drug production, transport, and sale.

AVC continues to support legislation to

provide adequate drug abuse treatment and rehabilitation resources and hails the passage of the Drug Rehabilitation Act.

SENSE RESOLUTION ON SPN CODES

AVC supports legislation that would remove the Separation Program Numbers (SPN) from the separation paper DD214. AVC believes that such numbers on the DD214 are the private information of the veteran and should not be available to anyone who requests to see the DD214.

SENSE RESOLUTION ON JUDICIAL REVIEW OF VA DECISIONS

AVC strongly supports repeal of the law which prohibits judicial review of decisions by the Veterans Administration relating to the granting or denial of benefits.

RESOLUTION ON VETERANS BENEFITS FOR CONSCIENTIOUS OBJECTORS WHO PERFORMED ALTERNATE SERVICE

AVC supports the recent court decision (in Boston) providing for veterans benefits for individuals who performed alternative service.

RESOLUTION ON VETERANS AFFAIRS COMMISSION

I AVC urges the Federal government to provide the Vietnam era veteran a significant role in the planning and implementation of all programs, policies and agency actions affecting the Vietnam era veteran.

II AVC urges the federal government to provide follow-up psychological readjustment assistance to and for the Vietnam era veteran and his immediate family.

SENSE RESOLUTION ON LIMITATION ON ATTORNEY'S FEES

AVC urges that a full review be made of the current $10 limitation on the fee which a lawyer may charge a veteran for representation before the Veterans Administration seeking benefits. AVC believes that although lawyers should not be permitted to extract exorbitant fees, thus reducing the amount of benefits a veteran ultimately receives, the present limitation may be effectively depriving veterans of any benefits.

PERMANENT EMERGENCY

Mr. CHURCH. Mr. President, an excellent editorial on the state of national emergency in which the United States finds itself appeared in the Nation of October 8. I ask unanimous consent that the editorial be printed in the RECORD.

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

PERMANENT EMERGENCY

The United States, by law, has been in a constant state of emergency since 1917. Congress then gave the President broad powers under the Trading with the Enemy Act, and it has never taken them back. Over the years since, Congress has added to the President's extraordinary powers with almost 600 separate bills broadening his right to rule the country, if he so wishes, without regard to normal constitutional processes. Under these various laws, the President "may seize properties, mobilize production, seize commodities, institute martial law, seize control of all transportation and communications, regulate private capital, restrict travel and, in a host of other ways, control the activities of all American citizens."

The words are those of Senators Frank Church (D., Idaho) and Charles Mathias (R., Md.), who this year have been investigating the nation's emergency laws. Their findings are frightening. According to what their Special Committee on the Termination of a National Emergency has dug up, it is at least possible that a President, if he thought he was about to be impeached, could use his emergency powers to remain in office and, after legally declaring a new emergency, impose martial law upon the country. The Church-Mathias committee is about to publicize 470 of the more significant emergency statutes, and then we should have a better understanding of how far Congress has evaded its responsibilities. The irony is that during present Congressional debates and proposals on the subject, almost no Congressmen appreciate the extent of the emergency powers which the President now holds; even if some of the current measures limiting executive authority over spending and military action were enacted, the President would still retain his emergency powers and could do just about everything, quite legally, that the new laws would seek to prevent.

One effect of the emergency statutes is that the government continues to demand that a citizen obey orders which by no stretch of the imagination can be related to the state of affairs which allegedly justifies them. Thus in 1970, a federal Court of Appeals upheld the Cuban Assets Control Regulations on authority of the Korean War emergency delcared by President Truman twenty years earlier.

Two years ago, Congress repealed the World War II Emergency Detention Act, and civil libertarians sighed in relief. But remaining on the federal law books is a provision designed as a World War II power and headed "Restrictions in Military Areas and Zones." In essence, it gives any military commander the right to put a citizen in jail after a President legally declares a new national emergency. Another "emergency" statute gives the President power "upon application of the country concerned [to] detail members of the Army, Navy, Air Force and Marine Corps to assist in military matters (1) any republic in North America, Central America or South America; (2) the Republic of Cuba, Haiti or Santo Domingo; and (3) during a war or declared national emergency any other country that he considers it advisable to assist in the interest of national defense." The President, if he wished, could today find it legally simple to send the boys back into Vietnam.

The Church-Mathias committee has found that some of the emergency statutes have become part of everyday activities of the federal government; some deal with export control, international investments, tariffs and certain contract bidding practices. Thus it will not do simply to revoke the basic emergency laws tied to the Great Depression and the World Wars, since that would wipe out some statutes which should be recast in the form of permanent law. The Church-Mathias staff is expected to suggest which of the emergency laws should be enacted into permanent legislation and which can be scrapped when an end to emergencies is declared by Congressional revocation. The staff is also expected to recommend enforced, permanent Congressional supervision of any national emergency legislation which might remain or be newly enacted. It seems sensible to suggest that no Presidential emergency authority be permitted to run beyond a specified period without Congressional re-enactment.

But can Congress act responsibly and swiftly in a national emergency, or does the modern age dictate that the Chief Executive always retains broad powers to put the country into an emergency and to give the executive branch wide control of human and economic activity? The answer is that Congress can act if it wants to. Emergencies seldom befall us overnight, the war in Vietnam certainly did not, and any one able to read should have seen the dangers in allowing the dollar drain to continue for years. Prof. Gerhard Casper of the University of Chicago told the Church-Mathias committee: "While kings, even Presidents, may abdicate, Congress has no constitutional right to do so. Emergency powers are among the most serious dangers to democracy. All that is doubtful is whether members of Congress have the will to abide by their constitutional oath of office."

INTERSTATE LAND SALES

Mr. HARTKE. Mr. President, 5 years ago, the Congress enacted the Interstate Land Sales Act. This act was designed to combat the widespread abuses which occur all too often in the interstate sale of land. In spite of this law, these abuses still continue, depriving many persons of their hard-earned savings when their purchases turn out to be utterly worthless parcels of real estate. It is for this reason that I have introduced S. 1753, the Interstate Land Sales Act amendments. The bill requires Federal licensing of all interstate land sales dealers.

Mr. President, a recent article in Consumer Reports brings into a clearer focus the dangers of the interstate purchase of land. I ask unanimous consent that this article from Consumer Reports be printed in the RECORD.

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

LAND SALES BOOM—LET THE BUYER BEWARE

Land sales are booming and so are consumer complaints about the companies doing the selling. Since the Federal Government got into the business of regulating interstate land sales back in 1969, it has received some 5000 complaints covering a wide range of abuses. Despite scant public knowledge of the existence of a Federal land-sales agency, the flow of complaints against land development companies has swelled to 50 a week.

The complaints come from consumers who have bought undeveloped land for vacation homes, for retirement living, or simply for speculation. Typically, the operation that has enticed them into purchasing works like this. The promoter buys—often with little money down—a large section of raw, undeveloped land at a very low price, perhaps in Florida, the Southwest or, more recently, in potential recreation areas near large urban centers. The land is then plotted into acre or residential-sized lots. Perhaps the promoter puts in a road or two and a few buildings.

A team of master salesmen then goes to work selling the land, or installment contracts to buy the land, as quickly as possible and at prices many times over the developer's purchase price. The skill of this special breed of salesmen is illustrated by the fact they have been able to sell totally undeveloped land in Florida at about $4000 an acre when much of the property is under water during rainy seasons; costs for draining the land and building and maintaining roads are the obligation of the buyer.

The come-ons of the salesmen typically include free motel dinners, free plane flights to Florida or Southwest, or a wide variety of gifts for "just visiting" the development.

The result is that many consumers buy promotional land on impulse at sales dinners or other presentations where the pitchmen whip up excitement over the prospect of high profits buyers will make. Later many buyers find, to their regret, that the salesman's glowing prediction of rapidly rising land prices simply doesn't materialize.

In a story earlier this year, The Wall Street Journal quoted a salesman for GAC Corporation's River Ranch Shores development in Florida as predicting that the property is "sure to go up 20 per cent a year." In addition to its being against Florida law for salesmen to predict precise increases in value, the Journal noted that a 20 per cent increase is a long way from what has happened to prices in some other Florida developments.

"GAC's own study," the Journal said,

"shows that sales prices on land at its Cape Coral development have risen only around 10 per cent in 10 years. Some local real estate dealers paint an even bleaker picture. One says that some Cape Coral lots for which buyers paid $3180 in 1960, 12 years ago, won't fetch $2400 now. And if you bought a Cape Coral lot now at the asking price and sold a year from now, he contends, 'you'd lose your shirt.' "

Horizon Corporation, another of the nation' largest land promoters, is selling land in its development 20 miles south of Albuquerque, N.M., at a minimum markup of 22 times the price it paid for 46,800 acres of semi-arid ranch land back in 1968.

Tucson real estate dealer William B. Franklin, who is chairman of a group called "Citizens for the Preservation of Santa Cruz County," questions whether investors in Arizona promotional land developments are making a wise choice. In a series of articles on land sales in the Troy (Ohio) Daily News, Franklin gave this assessment of GAC Corp.'s Rio Rico development: "Rio Rico is terribly overpriced. You can buy a choice one-acre lot in the Catalina Foothills of Tucson, where I live, for $7,500 right now. That price includes paved streets, power and water. At Rico Rico you pay $4000 or $5000 [for less than an acre] and it may be 10 years before utilities are brought to your property."

How should you evaluate an investment in land? Roy P. Drachman, an experienced Tucson real estate dealer and president of the research-oriented Urban Land Institute, estimates that money invested in unimproved land must *double* in approximately five years *just to* meet the carrying costs. These costs include such items as rate of interest used to buy the land, real estate taxes, care-taking (trips to inspect the property, for example), insurance and inflation. Any profits to be realized must be *in addition* to these carrying costs. Drachman added that his estimate does not include selling costs such as a broker's commission, lawyers' fees and capital gains taxes.

Furthermore, vacant land produces no current returns and the investor is giving up his chances for dividends and capital gains on other possible investments, or the interest on an equal amount put into savings. Money in insured bank savings at six per cent compounded annually, for example, will double in 12 years, with no risk.

Aside from the doubtful value of such investments, what are some of the specific problems and pitfalls consumers are discovering in buying land? Federal officials charged with the duty of overseeing interstate land sales report that, in addition to objections over misrepresentations about how much property will increase in value or the improvements that will be made on it, complaints fall into these categories:

PROPERTY REPORT

Federal law requires that the developer furnish the potential buyer with a factual report on the property. The report, in question and answer form, covers important facts buyers should know about the land and includes such information as: name and location of developer and subdivision; effective date of the report; road distances to nearby communities; financial terms and refund policies, if any; mortgages and liens; protection, if any, afforded the buyer in case of financial default of the developer; leasing arrangements; taxes and special assessments to be paid by the buyer; escrow and title arrangements, plus any restrictions, easements, covenants and their effect on the buyer; recreational facilities available and expected dates of completion of proposed ones; availability or lack of utilities and services such as trash collection, sewers, water supply; any need for drainage and fill before the land can be used for building; presence of schools, medical facilities, shopping and transportation or proposed dates of availability of such services; number of homes now occupied; accessibility of lots by roads.

But officials say sellers frequently fail to provide a copy to the buyer or an opportunity for the buyer to read it carefully and understand it. And even when a report is provided it may not reveal the facts that "lake access," for example, does not mean lake shore property, that roads may turn into mud holes too steep and narrow for fire trucks or school buses to maneuver, that planned canals for sailing boats right up to property lines may contain only a foot of water at high tide.

REFUND POLICIES

Here the problems are misrepresentation of the refund policy by company personnel, failure to provide refunds when requested, and misunderstandings by the buyer of what he must do to obtain the refund. One typical example is the provision that a buyer must travel to the property site—at his expense—in order to obtain the refund.

BAIT AND SWITCH

Officials say complaints in this category fall into two types: "on the spot" in which salesmen tell the buyer that the advertised lot has been sold and then attempt to switch him to a more expensive parcel, and "delayed bait and switch," when the buyer visits the property for the first time months or years after the initial sale and discovers that it is underwater, inaccessible or not what he was led to believe. The company then attempts to "placate" the buyer by selling him (or "switching" him to) a better, higher-priced lot. The company credits the consumer with only the equity he has built up (not total payments) in the first lot toward purchase of the higher-priced one.

OWNERSHIP RIGHTS

These relate to the consumer's discovering that he doesn't "own" the land subject to a typical home mortgage. Unless he paid the full asking price at the time of the sale, the consumer has precious few legal rights to the land. Chances are he does not have a deed at all, but merely an agreement with the company to furnish a deed years later after he pays off an installment sales contract for the lot. Should he fail to make any payment on the contract—for any reason—the company can declare him in default, take back the property and keep all the money the consumer has paid.

WHAT PROTECTION DO BUYERS HAVE?

In an attempt to provide consumers with some protection against these and other abuses in land sales, Congress in 1968 passed the Interstate Land Sales Disclosure Act, which became effective April 28, 1969. Administration of the law is in the hands of the Office of Interstate Land Sales Registration (OILSR), part of the Department of Housing and Urban Development.

The agency can require disclosure of important facts about land developments and suspend any company from engaging in interstate sales. It can also ask the Justice Department to bring criminal charges against violators of provisions of the Act, which provides for fines up to $5,000 and jail sentences of up to five years.

The Act also requires that owners of developments involving 50 or more unimproved lots for sale in interstate commerce register with OILSR, and that each buyer be given a detailed, written property report, described earlier. If the seller fails to furnish such a report, the buyer can cancel the deal at any time and have his money refunded. If a seller furnishes a property report to the buyer less than 48 hours before signing the contract, the buyer has 48 hours in which to cancel and get a refund.

If a seller fails to comply with any provision of the Act, or has committed fraud, the buyer may sue for damages up to the purchase price of the lot, plus any improvements and reasonable court costs.

The law has many sound consumer protection provisions and sufficient teeth for enforcement. Why, then, are there continuing abuses and a rapidly growing number of complaints?

The answer appears to be a familiar one for consumers; it takes more than a good law to solve the problem—it requires strong enforcement. During its first years, OILSR was buried under layers of officialdom in HUD.

For nearly three years the office was administered by subordinates reporting to Eugene Gulledge, an assistant secretary of HUD and Commissioner of the Federal Housing Administration. Gulledge, a former construction executive from Greensboro, N.C., was president of the National Association of Home Builders when he went to HUD in 1969. Gulledge's first administrator of OILSR, Alfred J. Lehtonen, resigned last year to join Horizon Land Corp.

As of May 31, 1972, the office had obtained only four indictments, all involving relatively small operators, and only one conviction also of a small development. Sales at only 18 locations had been suspended by OILSR for any reason.

Testimony as to the agency's lack of regard for consumer complaints was documented at hearings in Washington on May 31 and June 1, 1972, when witnesses told of waiting for as long as two years without getting any substantive response. Others said they had encountered outright hostility.

But more recently there have been some hopeful signs that the agency may be acquiring a stronger sense of responsibility. On March 1, HUD Secretary George Romney shifted OILSR to his direct control and appointed a new administrator, George K. Bernstein, to run it. Bernstein has announced a "get tough" policy, including a series of public hearings throughout the country at which consumers can report their experiences with—and complaints about—promotional land sales.

Whether or not the agency's new energy will lead to long-range correction of land sales abuses or is merely election-year rhetoric remains to be seen.

Meanwhile, consumers should not be lulled into any sense of security about buying undeveloped promotional land simply because of the existence of Federal and state regulatory laws and agencies. Thirty-five states now have some requirements for registering land sales, but there is little actual supervision of land developments in most states. The OILSR staff itself numbers only about 50, and when Bernstein took over the office there were only two investigators. He has increased the force to 10, which still seems hardly adequate to investigate some 50 complaints a week.

Despite attempts at consumer protection, sharp salesmen have been known to turn the requirement for government registration around to their favor by telling consumers that their development "has been approved by the Government," which is never the case.

At the outset, those who are determined to buy promotional land should write to OILSR (Dept. of Housing & Urban Development, Washington, D.C. 20411) and ask if the company selling the land is registered.

One should, of course, never buy without seeing the land. But even this good advice can be misleading, for just looking at a chunk of undeveloped desert, swamp, or woodland tells the buyer nothing about possible legal encumbrances on the title, or easements or rights of way that may run across the land and impair its use as a homesite or for commercial development. Nor does on-site inspection reveal its potential for resale at a profit.

Since most promotional land is sold on installment contract over a period of years, just

seeing the land doesn't explain anything about second mortgages, mechanic's liens, or tax liens, all of which take precedence over your claims to the land if the developer runs into financial problems, which government officials say is not at all unusual. And, if the promoter declares bankruptcy, it could be years before buyers could recoup their losses, if there's any money left.

In short, there are many compelling reasons why consumers should pass up the "free" dinner and vacation offer from the promotional land development companies. A far more rational approach to buying retirement, vacation or investment land is to visit the area, talk with a number of real estate brokers and sign nothing until you are fully convinced that you have a sound investment which has been thoroughly reviewed by your own lawyer.

SOME PERILS IN A LAND SALES CONTRACT

Many land sales contracts give the seller advantages rarely explained by salesmen, and the consumer precious few rights. For example, we reviewed a promotional land sales contract that a Florida company used in selling a Yonkers, N.Y., widow one acre of undeveloped land near Palm Beach. The widow said she did not see—and has never seen—the property since she signed the papers for it in 1969.

She did not remember having read the property report, which was included a large kit of company promotional materials and she was unaware that the report indicated the land would have to be drained before it would be usable. She bought the land on the advice of her brother-in-law who had bought three acres and said it "looked like a good deal." She signed a contract to pay $3,890 for the acre and paid $1,000 down, leaving a balance of $2,890 to be paid in $36 monthly installments. She did not know how many installments there were. She also said that, since the company did not send her any annual statements, she had no idea how much interest she was paying. She thought that she did not have to pay any real estate tax on the land. She was also equally unaware of any of a number of provisions contained in small print on the back of the contract.

For example, she thought she had a deed to the property, but the official-looking document she received from the company is only an "Agreement for Deed," in reality an installment sales contract. If she misses one payment—for any reason—the company can declare the contract in default, take back the lot and keep all the money she has paid to date. She is not even permitted to sell her interest in the lot unless the company approves the sale and all of its terms and conditions.

Although the property report spells out a detailed company policy which provides for refunds under certain conditions, the contract—which is the sole controlling legal instrument—contains this clause: "There are no refund privileges under ths contract."

She has absolutely no rights to any oil or minerals that might be discovered on the property.

The company will put in graded—not paved—roads and arrange for drainage, but she will be assessed for these improvements. The contract includes estimates of $220 an acre for drainage, but the company is not bound by that figure, which could be considerably higher.

She has absolutely no rights of possession in the property until delivery of the deed. And before she can obtain the deed, she must pay the company for all the taxes it has paid on the lot over the length of the contract, plus interest at 6 per cent. Before she gets her deed she will also be required to pay off any levies and property assessments which may have been paid by the company during the term of the contracts, plus interest. The contract is written in such a was as to make all these sums—taxes, assessments, levies and interest—payable as a final payment before the contract is satisfied. So, instead of a final payment of $36, she may face a "balloon" payment of several hundred dollars that, if not paid on time, could result in default and forfeiture of all the money she has paid during the life of the contract.

THOSE WHO SHOULD HAVE SEEN THE OIL SHORTAGE COMING DID NOT—OR WOULD NOT

Mr. McINTYRE. Mr. President, I rise today to ask some questions in behalf of the American people.

I want to ask these questions before truth and perspective about the cause of the fuels crisis are swept under the rug in the headlong rush to solve it. And I want to ask these questions before I turn down the thermostat on my anger and outrage.

Today our people are being called upon to sacrifice comfort, convenience, pleasure, yes, and in some instances their means of earning a living or their facilities for getting an education in order to get us through an emergency that was not of their making.

I do not minimize the seriousness of the situation, Mr. President.

Nor do I challenge the need for self-sacrifice.

We are in a state of crisis, and it will take self-sacrifice and a united effort to get us through it.

But how do we get it? How do we develop the kind of public understanding that can kindle a spirit of self-sacrifice and unity?

I say the only way we can do it is through a full and frank disclosure of the facts. Including, Mr. President, a full and frank disclosure of the mistakes in judgment, the miscalculations, and the stubborn refusal to recognize the abundant danger signs that led us into this sorry situation.

Surely we should have learned in the past 17 months that nothing is more disenchanting, nothing more divisive, nothing more damaging to the American spirit than ignoring the people's questions in a time when ongoing revelations are changing denial of blame to admission of wrong in instance after instance after instance.

I use this example deliberately, Mr. President, because I see in the development of the energy crisis and the attempt to cover it up until it exploded in the administration's face a pattern disturbingly familiar.

First, the repeated denials by the administration and the major oil companies that a petroleum shortage was looming, denials repudiated by last winter's minicrisis in heating oil.

Then, last spring, reluctantly acknowledging that further shortages might be expected, but shrugging these off as potentially no worse than a 1- to 2-percent inconvenience.

Now, face to face with an undeniable shortfall of 18 to 20 percent or more, conceding no lack of foresight, admitting no error, offering no apology, pointing the finger of blame at the affluent greed of the consuming public, the Arab oil embargo, the Congress of the United States—everywhere but where a big part of it belongs.

Mr. President, I ask my colleagues to check Mr. Nixon's energy message, check it word for word. I ask my colleagues to check the newspaper advertisements and the television and radio commercials pushed at us night and day by the major oil companies.

I ask them to find, if they can, the slightest hint in any of these messages that the administration or the industry is even remotely responsible for even part of the crisis.

I can spare my colleagues the effort. There is none.

Nor, Mr. President, is there the slightest hint that those Americans most responsible for the fuels shortage are those Americans who are profiting most from it.

For while the crisis is hurting—or threatening—a spectrum that takes in the homeowner, the commuter, the farmer, the plastic products manufacturer, the airlines, the trucking industry, mass transit, schools, colleges, tourism, the stock market, and clean air standards, the major oil companies are reaping windfall profits of hostorical dimension.

I ask my colleagues to consider the fact that third-quarter earnings by 10 major oil companies were up an average of 52.1 percent. To consider the fact that Gulf, Exxon, and Mobil reported gains of 91, 80, and 64.1 percent, respectively, during the third quarter and that Occidental reported a 7,153-percent increase over 1972. To consider the fact that in dollar terms Exxon's net income for the first 9 months of this year was $1,660,000,000; Mobil's $571,200,000; Gulf's $570,000,000; Standard of Indiana's $389,800,000; Shell's $253,300,000; Continental's $153,400,000; and Phillips' $143,700,000.

Mr. President, this bitter irony is not lost upon the people. One poll I saw indicated that 70 percent of those questioned believe the shortage was rigged to boost oil company profits. Nor should it be lost upon the oil tycoons themselves. One, at least, had the decency to say: "I think we all might have been better off in the longrun if we could have reported a decline in profits."

But there was not a decline, Mr. President. There was a breathtaking leap upward on the strength of sharply higher crude oil and product sales volumes, higher domestic and European product prices, higher volume and profit margins on plastics and petrochemicals, and record prices for oil tanker charters.

So while the people turn down their thermostats, call off their vacation trips, car pool, wear sweaters in their homes and offices, and anticipate winter closings of their children's schools, the major oil companies keep warm ringing their cash registers and hauling record profits to the banks.

Mr. President, let no one mistake what I am saying. This is not the perennial protest of the professional populist. This is the outraged cry of one middle-of-the-road U.S. Senator who believes in the

capitalistic free enterprise system but who also believes that the major oil companies of America have betrayed the trust of the American people.

And let us get this on the record right now: The major oil companies are in no way the rugged individualists they would have the people believe they are.

It was not a populist, not a liberal, not a Democrat who said, "Few industries sing the praises of free enterprise more loudly than the oil industry. Yet few industries rely so heavily on special Government favors." The man who said that was Milton Friedman, the conservative economist whose column appears in Newsweek magazine.

And those special Government favors, Mr. President, have cost the American people in artificially high prices for petroleum products and in the higher taxes they must pay to make up for the tax breaks accorded industry. For 14 years the mandatory oil import quota system alone cost American oil consumers upward of $5 billion a year more than they would have been paying if competitively priced foreign oil had been allowed to come into this country in more than a trickle.

And heaven knows what the oil depletion allowance, intangible drilling cost tax breaks, foreign investment tax credits and all the rest have cost the American taxpayer.

But Mr. President, except for an exercise in hindsight judgment, this is really beside the point.

For the truth is that those privileges were once deemed necessary enough to enact them into law. And the truth is that no amount of consumer-taxpayer protest over the years has been powerful enough to overcome "Big Oil's" political clout and get them off the books.

The natural question is "Why?" Why has public indignation over big oil's special privilege never really crested?

The answer to that touches the heart of the indictment against big oil.

Those privileges stayed on the law books, Mr. President, because enough rank and file citizens, enough businessmen, enough industrialists accepted the major oil companies' word that tax breaks and protection against imports were indispensable to continued domestic oil exploration, drilling, and refining and in exchange for those privileges the follow-on assurances of adequate supplies in peace and in war.

Now I want my colleagues and my constituents to know that I shared that faith. For a long, long time I believed that the quid pro quo of privilege in exchange for the assurance of adequate oil supply was valid and justified.

And though time, events, and my own personal experience—which I will spell out in a minute—have eroded that faith, I still cannot find it in me to believe that the industry contrived the oil shortage to drive prices up.

Nevertheless, Mr. President, I can find it in me to believe that today's fuels crisis—which even the administration now concedes would have happened without the Arab oil embargo—can be laid directly to the betrayal of the public trust by the major American oil companies.

I am not charging deliberate betrayal. But I am indicting these giants of the industry with gross incompetence, with stubborn blindness, with selfishness, and with a lack of foresight that seems totally incredible in the light of today's developments. And I am indicting this administration with being a willing accessory to this betrayal by its unquestioning acceptance of the industry's word that no significant shortage was imminent—and by its notorious reluctance to move against the wishes of the industry, even when the public interest clearly dictated such a move.

The reluctance to buck the industry is not unique to this administration, Mr. President. Let us be fair about that. Big oil's political influence, as we all know, cuts across party lines and has been equally effective in Democratic as well as Republican administrations.

But the hesitance to take the public's side in the face of our first peacetime energy crisis is unique to this administration, Mr. President, and that hesitance is as reprehensible as it was irresponsible.

What I cannot understand—and what our sacrificing people must be told—is why the signs of an impending emergency were denied by the industry and ignored by the administration until only weeks before consumers were being asked to cut back on fuel and energy use, rationing was being seriously considered, and the Congress of the United States was being asked to give the President unprecedented authority to meet a crisis the heedlessness of the oil industry and its administration handmaid itself precipitated?

Why was it, Mr. President, that a handful of Senators and Congressman—using the petroleum industry's own figures—could see this coming a year or more ago?

Where was the vaunted expertise of the industry giants?

Where was the administration's concern for the public then?

Mr. President, on behalf of Americans everywhere who are sick and tired of deception, evasion, and public relations "snow jobs" I pose the following questions—some of which I have asked time and again over the last 5 years, some of which are relatively new, all of which deserve answers:

How, in good conscience, could the major oil companies simultaneously hide the mistake they made in overestimating the reserves in America's two largest oil fields, oppose repeal of oil import quotas for 14 long years, yet continue to exhort the consuming public to use more and more fuel and more and more energy?

How could the major oil companies fail to foresee and provide for the galloping increase in world and domestic demand for refined petroleum products?

Specifically, how could the oil industry allow the number of domestic refineries in the last 10 years—and only 5 of these major refineries—and have no new refineries under construction as late as the beginning of this year?

What did the oil industry do with all the money it saved through tax subsidies and import protection? That money was supposed to be used for exploring, drilling, and producing enough to sustain us. How much of it was spent for that purpose? How much of it was spent elsewhere for other purposes?

Mr. President, the industry has offered some answers to these questions, but let us examine them for a minute.

Uncertainty over oil import policy has been offered as one explanation of why so few new refineries have been built in recent years.

This is an intriguing answer, Mr. President. If, as all evidence indicates, oil import policy has been dictated by the industry itself, then this means it was the industry that was uncertain—not the Government.

And recent chronology would seem to bear this out. For how can the industry explain its mystifying turnabout on import policy?

For 14 years the major oil companies fought tooth, nail, and influence to keep foreign oil out of this country. Yet, during those 14 years there was a net loss of 39 American refineries. Thirty-six were built. But 75 were shut down.

Yet the minute import quotas were lifted last April, these same companies fell all over themselves announcing great new refining expansion plans. And now—with the Arab countries cutting off supply—those announcements are being called back as inoperative.

Mr. President, one cannot help but wonder why these major oil companies—knowing as they did that their domestic fields were failing—opposed letting in foreign oil they could have had in abundance and at bargain prices until the very year they could not get it.

It does not say much for big business foresight and acumen.

And now let me turn to the other stock answer the oil companies give when they are asked why they did not increase refining capacity.

They blame the environmentalists.

Well, Mr. President, all I can say to that is they had plenty of time to increase refineries before Earth Day came to stay. And they did not. In the 10 years before April, 1970, 30 refineries were built—and 66 closed down. A net loss of 36.

Moreover, on September 17 Mr. Nixon himself forwarded a report to the Congress which said that in more recent years environmental protection measures were topped by four other factors—including the oil industry's own lack of foresight—as being influential in delaying refinery construction and expansion.

So much for industry explanations.

And now, Mr. President, before I ask specific questions of the Nixon administration about its adamant refusal to act to head off the crisis until now, I would put to the administration the same question I asked of the Johnson administration:

Why was the mandatory oil import quota system kept in effect long past the time when there was any justification whatsoever for it?

Years ago it was already apparent that the quota system was not encouraging the major oil companies to explore and drill new wells.

Years ago it was equally apparent that the quota system did nothing more than

pick the consumers pocket while it lined the oil industry's pocket with the profits reaped from a price structure insulated from any effective competition.

Yet the Johnson administration refused to lift it. And the Nixon administration failed to lift it until April of this year. And then only because the oil industry suddenly realized how badly it needed the foreign crude oil it had so long despised.

But why did the Nixon administration have to wait until the oil industry changed its mind about import quotas before it lifted them?

Why did Mr. Nixon not heed the advice of his own Cabinet Task Force on Oil Import Controls when it advised him to phase out the quota system 3 years before he finally acted?

Does this or does this not raise the obvious question of who has more influence with this administration. The President's own Cabinet? Or the oil industry?

A year ago September, Mr. President, my staff and I surveyed oil supply-and-demand figures and concluded that New England and other parts of the country were facing a possible home heating oil shortage because of a shortfall in heating oil refining that summer.

It seemed apparent to us that the August 1971 price freeze applying to gasoline prices at a seasonal high and heating oil prices at a seasonal low, had resulted in what we feared—overconcentration on gasoline refining in the summer of 1972 at the obvious risk of refining too little heating oil.

I called hearings in September of last year to look into this situation, and what I heard in testimony confirmed my initial suspicions.

I saw only one recourse. An immediate relaxation of oil import quotas. I wrote to the President asking him to do this in behalf of my own region and any others that faced a similar threat. I sent him telegrams as the weeks went on. Finally, the entire New England congressional delegation—Republicans as well as Democrats—signed a united appeal to the President to take this action.

He did not. Until it was too late to avoid a pinch that could have become a major crisis if the winter had been more severe.

I have never had an adequate answer to why the administration delayed in taking this action. And I seek it yet in the name of the people of New Hampshire, the people of Minnesota, the people of Colorado, whose homes, schools, farms, and factories ran out of oil last winter.

In his energy message of last week, Mr. Nixon implied that the Congress was to blame for inaction on the fuels and energy front, but in this instance and those I will now describe, the President already had authority to act and did not.

The lesson of last winter learned, Mr. President, the distinguished junior Senator from Missouri and I introduced in February an amendment to the Economic Stabilization Act that gave the President authority to impose mandatory fuel allocations. That amendment became law in April, in time for it to have been used to head off or at least ease a situation that saw a gasoline shortage develop in many areas and saw the forcing out of business of hundreds and hundreds of independent gasoline marketers who were cut off from their usual supply by the major oil companies.

Other Senators and I tried to tell the administration that the voluntary allocation program it invoked in May was not enough—that only mandatory allocation could guarantee equity not only in the distribution of available supplies but applied at the refining level could help avert another heating oil shortage by requiring a switchover to refining that product no later than August 1.

We pressed our argument again and again, until finally, on June 28, the able chairman of the President's Oil Policy Committee, William Simon, notified me that he agreed that the voluntary allocation program was not working as effectively as it should and that a mandatory program to take its place was being drafted.

My momentary euphoria was no more than momentary, Mr. President, because the day after Mr. Simon's letter arrived on my desk Mr. Nixon appointed a national energy czar whose very first public pronouncement rejected the concept of mandatory allocations.

At the time I wondered—and still wonder—how the parents of children whose schools were closed last winter in Governor Love's home State of Colorado felt about that.

This difference in views on mandatory allocations points up one of the big reasons why this administration has been so ineffective on energy matters, Mr. President.

Titles, offices, figureheads there may be. But the truth is that there is still no truly authoritative policymaking body, nor even a consensus.

Think back a year ago. Remember Gen. George A. Lincoln, the director of the Office of Emergency Preparedness? He was the President's first energy expert. He was the fellow who told us that the major oil companies had assured him there would be no shortages last winter.

Well, the shortages came. And General Lincoln went. And so did the Office of Emergency Preparedness.

Meanwhile, the White House had raided the State Department to get James Akins' energy expertise. Mr. Akins offered his advice, and some of it was pretty good advice. But it went into the waste basket, and Mr. Akins went off to Saudi Arabia.

The new chairman of the President's Oil Policy Committee, William Simon, an able man, began saying things that had to be said and soon found himself outflanked by an energy policy triumvirate made up of Treasury Secretary Schultz, Dr. Henry Kissinger, and John Ehrlichman. Well, Dr. Kissinger went to the State Department. Mr. Ehrlichman went to court. Secretary Schultz was to go to extremes in denouncing rationing. And whatever policy there was went to pot.

And then, all at once, it seemed as if Mr. Simon finally had the President's ear. But when he boldly ventured such unpleasantries as "mandatory allocations," the President quickly brought in new energy czar John Love to whisper the sweet nothings he seemed to want to hear.

Now Interior Secretary Morton gets into this musical chairs game from time to time, too, so we really never know which administration spokesman is going to be left standing when the music stops.

Mr. President, the net result of all this has been more than confusion. It has been paralysis in the face of crisis.

So when I took this floor on September 7 to present what I called a "Blueprint for a Heating Oil Crisis," I did so in frustration and with a sense of what is the use. Nevertheless, I felt I had to make it as emphatic as I could that while we were preparing to enter the 1973–74 heating season with the same level of short supplies we had the previous fall, and 24 million barrels of fuel oil less than we had on hand in the fall of 1971, the Nixon administration was still refusing to take any affirmative action.

At that time I said the administration "has refused to adopt mandatory allocations; it has exhibited an apparent inability to increase supplies; it has threatened the existence of the small business marketing segment of the oil industry; but it has assured the big multinational oil companies record profits."

And I asked, then, as I must ask again today: What is the real concern of this administration? Adequate supplies for the consumer? Or bigger profits for the major oil companies?

Because now it is mid-November, and the administration is still refusing to do what the situation demands be done.

On November 1, a mandatory allocation program was, indeed, finally imposed. But what kind of a mandatory allocation program is this, that exempts gasoline and does not apply at the refinery level? At best, a toothless tiger with tender gums. At worst, an inadvertent mockery of an administration that has the gall to criticize the Congress for timidity and procrastination.

So I ask in the name of the people, Mr. President, why this administration failed to use the tools the Congress provided it last spring. Why it failed to invoke the authority the Congress had already given it to allocate supplies and direct refining with the kind of firm dispatch that the situation demanded months and months ago.

If that had been done, Mr. President, the gasoline shortage of last summer could have been borne more equitably; hundreds of small marketers might still be in business; and a mandated early switch to refining heating oil would have eased the supply crunch.

The people deserve answers, Mr. President.

They do not deserve to be mislead any more about who is to blame.

They do not deserve the gratuitous insult that it was their greed for comfort and convenience that brought on the emergency.

They did not deserve the cold notice that they must pay more for fuel and

sacrifice comfort, convenience, and environment without an explanation.

The people will do what they are asked to do to get us through this emergency.

Historically they always have.

But they want to know why, Mr. President. They want to know how we got into this situation, before they are told how we are going to get out of it.

They have a right to ask those questions.

They have a right to have those questions answered.

THE FUEL CRISIS AND THE ECONOMY

Mr. MOSS. Mr. President, the energy crisis is on everyone's mind these days, and we have been working continuously in the Congress to meet the shortages that have come upon us. In fact, we have been busy now for more than 2 years in preparation of legislation to avert immediate shortages and to stimulate long-range production of additional energy.

In Sunday's Washington Post, Hobart Rowen submitted a very thoughtful article on the "Fuel Crisis and the Economy." I 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:

[From the Washington Post, Nov. 18, 1973]

FUEL CRISIS AND THE ECONOMY

(By Hobart Rowen)

Former Economic Council Chairman Walter W. Heller wisely observed in a special article for the Wall Street Journal last week that because of the oil crunch, all forecasts for inflation in 1974 are now "subject to change without notice." Let's go one step beyond that: all forecasts of any kind are useless.

The only realistic assumption that can be made is that the economy will be in some sort of recession next year and will continue to be depressed while the Arab oil embargo lasts.

Just how bad the economic slide here will be depends on a number of unknown factors, including the duration of the embargo and the wisdom of U.S. leaders in handling the shortage problem.

So far, there is little reason to be optimistic on either score: the Arabs seem interested in limiting their production and maximizing profits (already huge) regardless of the outcome of the Egyptian-Israeli negotiations; and the Watergated Nixon administration once again appears to be bungling an economic management job.

The clear need at the moment is to install a gasoline rationing program that would sharply cut pleasure driving, so that energy resources still available can be husbanded for essential industry.

But administration spokesmen are all over the lot on this issue, some trying to sweep the urgency of the problem under the rug. Others talk wistfully of a "free market" approach, letting prices skyrocket in order to create new production incentives as well as to diminish consumption.

The trouble with letting prices shoot up should be obvious. Not only would that mean the well-to-do could use and waste resources at will while people of modest means suffer, but such a "solution" would raise unholy hell with the economy.

Heller points out that fuel prices had been soaring even before the "sheik-down." Thus, the price index of fuels, related products and power (representing 7 per cent of the wholesale price index) had risen 20 per cent from September, 1972, to September, 1973. Refined petroleum products rose 35 per cent in that period.

Further price increases are certain. But unless rationing and price controls are made effective, costs will go out of sight.

Some administration officials, notably Economic Council Chairman Herbert Stein and Treasury Secretary George Shultz—who fear any kind of controls—would opt for a surtax system to reduce consumption of gasoline.

But Treasury experts admit that each penny of additional tax sucks $1 billion out of total purchasing power. If—as Gov. John Love suggested—the country needs a 30-cent tax to cut consumption of gasoline by 20 per cent or so, that would pull $30 billion out of individual's pockets and into the Treasury.

Even if a chunk of that were rebated in various ways, it would be likely to throw the economy into a serious recession.

In any event, the administration has badly failed the nation in assessing and coming to grips with the energy problem. The most compelling energy statistic I've seen comes from Deputy Treasury Secretary William E. Simon:

Prior to the Middle East crisis, the administration's expectation was that energy consumption in the United States would increase by 4 per cent a year, doubling 1970's needs by about 1980.

And how did we plan to get that increased energy supply? From the Middle East, because oil there was cheap. The idea of considering national security in economic terms apparently never occurred to the administration. Now, Mr. Nixon talks of "independence" by 1980.

Back in April, the President sent a message to Congress in which he referred to an energy "challenge"—he wouldn't even use the word "crisis". Five years too late, Mr. Nixon abandoned oil quotas. Yet, there was no recognition that oil was an international problem, and that some day we would have to come to grips with an international cartel with a stranglehold on key supplies.

Meanwhile, the domestic oil industry, fat and comfortable, wasn't anxious to add to refinery capacity or to prove out new reserves. Some oil industry leaders confess they badly underestimated how fast demand would rise, but most tend to blame the conservationists for holding back new exploration.

Early this year, former Commerce Secretary Peter G. Peterson came back from a trip around the world and reported to the President that energy would be the United States' overwhelming problem for the next decade, but he was politely ignored.

Peterson tried to get Henry Kissinger's attention focussed on the problem, but Kissinger was too preoccupied.

In his report, Peterson sharply highlighted U.S. dependence on Middle East oil for the projected growth of the economy through the 1970s and early 1980s. In an interview with him published in the Washington Post on July 9, 1973, I reported:

"Peterson's figures assume that the Middle East countries will continue to be attracted by higher prices, increase their production and sell the West all the oil it wants to buy.

"But the Middle East countries, knowing that their oil resources are finite, may decide not to increase production so rapidly. And in any event, the Middle East countries broadly suggest that unless there is a solution to the Arab-Israeli conflict more satisfactory to them, they may not cooperate with the West at all."

The administration wasn't listening.

Around mid-year, Mr. Nixon appointed Love to head an Energy Policy Office, but a sense of urgency didn't emerge until the shock of the oil embargo that accompanied the outbreak of the war in the Middle East.

Mostly, the past few months have been a time of fumble and stumble. Mandatory allocation of propane and middle distillate fuels was put in, but gasoline and electricity consumption are still subject to only voluntary restraint.

Above all else, the administration needs to act at once to put a mandatory rationing system in effect for private transportation and home heating oils.

At the same time, it must address itself to developing new sources of energy for the long haul, and to working with other Western nations in the short run to find ways of persuading the Arabs to lift their embargo.

There is no reason why the Western nations should not consider economic counter-sanctions, from food shipments to sales of manufactured products (including aircraft and arms) to technical aid and know-how. A retaliatory embargo, of course, would require the Western World to act together. Given the Arabs' success in forcing Britain and France to make the right anti-Israeli noises, and the possibility of similar successful blackmail against Japan, prospects for the success of such a concerted drive look dim indeed.

SOCIAL SECURITY AND VETERANS PENSIONS

Mr. HARTKE. Mr. President, last Friday the Senate sent to the President H.R. 9474, the compromise veterans' pension bill which provides a 10-percent increase in non-service-connected disability pension for veterans and their survivors. At that time I addressed myself to the question as to how the Veterans' Administration will define the impact of the Social Security increase presently under consideration by Congress to take effect in 1974. As I indicated the American Legion and others expressed concern over reports that the Veterans' Administration might depart from past practice and attempt to incorporate the prospective Social Security increase in determining the amount of pension which will be paid to a veteran or his survivor in 1974. During consideration of the compromise bill, I said that the VA should not depart from the "end of the year" rule contained in section 3012(b)(4) of title 38, United States Code.

Following my remarks I received a memorandum from the Office of the General Counsel of the Veterans' Administration which contains their final legal opinion concerning the treatment of the social security increase for pension purposes for 1974. The General Counsel states in the memorandum that:

> We find no legal basis for adjusting the pension rate in 1974 based upon increased social security payments expected later that year.

This decision also affects dependency and indemnity payments for parents. Thus I am pleased that I can fully assure my colleagues that no pensioner will have his pension cut in 1974 because of the currently proposed 11 percent social security increase.

Mr. President, I ask unanimous consent that the memorandum be printed in the RECORD.

There being no objection, the memorandum was ordered printed as follows:

NOVEMBER 16, 1973.

To: Chief Benefits Director (21).

From: General Counsel (02).

Subject: Determining income in 1974 for pension and dependency and indemnity compensation.

1. In your memorandum of November 12, 1973, you request my opinion on the following question based on an assumption that the rates of pension and dependency and indemnity compensation for parents would be increased effective January 1, 1974:

"In determining the annual income of pensioners and DIC parents for 1974 and in establishing the payment rates under the formula in the new legislative increase, does the law require that the social security increases expected in 1974 be counted?"

2. As stated in our memorandum of September 17, 1973, to which you refer, "notwithstanding notice of an increase in retirement prior to the deadline for reporting anticipated income for a forthcoming year, the end-of-the-year rule of [38 U.S.C.] 3012(b)(4) would still apply." This memorandum, as does our earlier opinion of January 26, 1968, adopted by the Administrator in his report of February 5, 1968, on H.R. 12555, 90th Congress, deals solely with the computation of income and is not related to the rate of pension payable, except to the extent that once income is determined, the rate payable for such income can be ascertained.

3. We find no legal basis for adjusting the pension rate in 1974 based upon increased social security payments expected later that year. Counting the 1974 social security increases in determining income would result in reducing the pension otherwise payable under the assumed increased rates. To do so, as suggested in the third paragraph of your memorandum, would be violative of section 3012(b)(4) as interpreted in the mentioned opinions.

4. Pension payable for 1974 should be based on the actual social security income received in 1973 in line with the aforementioned opinions. As previously indicated, the rate of pension has no bearing on the method of computing income. Once income is determined, the amount of pension to be paid would, of course, be fixed according to the rates then in effect.

5. The statutory method for determining the income of parents for the purposes of receiving dependency and indemnity compensation is similar to that of computing income for pension purposes. Section 3012(b)(4) is also applicable to reductions of such compensation. Therefore, the views expressed above with respect to pension apply equally to dependency and indemnity compensation.

6. It follows that your question, as set forth in the first paragraph, must be answered in the negative.

JOHN J. CORCORAN.

Mr. HARTKE. As the ranking minority member of the Veterans' Affairs Committee, Mr. HANSEN, the distinguished Senator from South Carolina (Mr. THURMOND), and I all mentioned during consideration of the bill on Friday, the Veterans' Affairs Committee now turns to overall review of the non-service-connected pension program. It is our intention that this reform will be accomplished prior to January 1, 1975, when any possible adjustments in a veterans pension would occur because of the increased social security benefits now under consideration.

CARMINE S. BELLINO

Mr. ERVIN. Mr. President, as chairman of the Senate Select Committee on Presidential Campaign Activities, I received a request from various Senators that the Senate select committee investigate the question whether Carmine Bellino, one of its employees, participated in the electronic surveillance of Republican campaign officials during the Nixon-Kennedy election of 1960. This request was based upon certain affidavits mentioned by the Honorable George Bush, chairman of the Republican National Committee, in a press conference.

I thereupon appointed Senator TALMADGE of Georgia, Senator INOUYE of Hawaii, and Senator GURNEY of Florida, members of the Senate select committee, as a subcommittee, and requested them to investigate this matter and make a report to the full committee as to their findings and conclusions.

I made this request of these three members of the select committee by letter dated August 6, 1973, and ask unanimous consent that a copy of this letter be printed at this point in the body of the RECORD.

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

AUGUST 6, 1973.

Hon. HERMAN E. TALMADGE,
U.S. Senate,
Washington, D.C.

DEAR HERMAN: Carmine Bellino, who is a certified public accountant, and who served for many years on the Senate Permanent Subcommittee on Investigations, was employed by the Senate Select Committee on Presidential Campaign Activities at my instance to collect and analyze campaign contributions and other financial matters relating to the presidential election of 1972.

Senator Hugh Scott and others have requested the Senate Select Committee to investigate the question whether Carmine Bellino participated in the electronic surveillance of Republican Campaign officials during the Nixon-Kennedy election of 1960. The request is based upon three affidavits discussed by the Honorable George Bush, Chairman of the Republican National Committee, which were made by John W. Leon, who has since died, Ed Jones, and Joseph Shimon. Mr. Bellino has supplied me with a copy of an affidavit made by Mr. Oliver William Angelone, and what he claims to be a correct analysis of the three affidavits mentioned by Mr. Bush, and the Angelone affidavit.

Manifestly, the Committee has no authority as a committee to investigate this matter as a part of the Watergate affair, but it does have the authority to investigate the qualifications of any of its employees.

To this end, I am requesting you, as Chairman of a subcommittee of the Senate Select Committee on Presidential Campaign Activities, and Senator's Inouye and Gurney, as members of such special committee, to investigate this matter and make a report to the full committee as to your findings and conclusions.

I might state that upon receipt of the complaint, Senator Baker and I interviewed Carmine Bellino, who denied categorically that he participated either directly or indirectly in any electronic surveillance of Republican Campaign officials in 1960. He stated to us that anti-Catholic literature was being prepared and circulated by a certain individual and that this individual was placed under mere physical surveillance to ascertain whether or not he was connected with the Republican Campaign officials.

I am taking the liberty of sending to each of you copies of the affidavits involved and a copy of the analysis of those affidavits submitted to me in behalf of Carmine Bellino.

Sincerely yours,

SAM J. ERVIN, Jr., *Chairman.*

Mr. ERVIN. In consequence of my request, the subcommittee considered the affidavits originally obtained by agents of the Republican National Committee and all other available evidence bearing upon the charge against Mr. Bellino. A majority of the subcommittee; namely, Senators TALMADGE and INOUYE, made findings of fact based on evidence considered by the subcommittee, and reached the conclusion after—

an extensive investigation * * * that there is no direct, competent or credible evidence to sustain the charges against Bellino that he participated in electronic eavesdropping or in the planning of electronic eavesdropping in connection with the 1960 Presidential campaign of John F. Kennedy against Richard M. Nixon.

I ask unanimous consent that a copy of the report of the subcommittee be printed in the RECORD.

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

REPORT OF SUBCOMMITTEE TO INVESTIGATE ALLEGATIONS AGAINST CARMINE S. BELLINO

I. CONCLUSION

Following a public announcement by Republican National Chairman George Bush and the release of a letter signed by 22 United States Senators calling for an investigation to determine the fitness of Carmine S. Bellino, Chief Investigator of the Select Committee to continue in his position as Chief Investigator, a Subcommittee consisting of Senators Talmadge, Inouye and Gurney was appointed on August 3, 1973 to investigate the charges against Mr. Bellino.

Based upon an extensive investigation, it is the Subcommittee's conclusion that there is no direct, competent or credible evidence to sustain the charges against Bellino that he participated in electronic eavesdropping or in the planning of electronic eavesdropping in connection with the 1960 Presidential campaign of John F. Kennedy against Richard M. Nixon. Consequently, the Subcommittee finds no basis for discharging Mr. Bellino.

II. REPORT

A. Predicate

On July 24, 1973, Chairman George Bush of the Republican National Committee made a public announcement and released three affidavits which he said raised "very serious questions about Mr. Carmine Bellino, Chief Investigator of the Senate Watergate Committee." Mr. Bush said that a few weeks earlier he had received information which led him to believe that the Republican National Committee and certain Republican party and Presidential campaign officials had been spied upon during the 1960 Presidential campaign. He said there was a strong indication that the spying included the use of electronic devices, and possibly even electronic surveillance of hotel space in which then Vice-President Nixon prepared for television debates with then Senator John F. Kennedy. Mr. Bush added that there was a strong indication that the spying and surveillance had been ordered by a key aid of the Kennedy campaign manager, who is identified by the affidavits as Bellino.

Mr. Bush expressed the view that serious violations of the public trust transpired before Watergate, and that it is a gross distortion to ignore what has been done in other campaigns. He said the Senate should conduct an investigation of the "charges contained in the attached affidavits."

By letter of July 27, 1973, twenty-two Republican United States Senators urged Chairman Sam Ervin to investigate the allegations in the affidavits released by Chairman Bush. The letter noted that the affidavits alleged that Bellino was "deeply in-

volved in illegal bugging of the Presidential campaign of 1960."

On August 3, 1973, Senator Ervin appointed a subcommittee to investigate the charges. The Subcommittee consists of Senator Herman F. Talmadge, Chairman; Senator Daniel K. Inouye, and Senator Edward J. Gurney.

In the past two and one-half months the Subcommittee has conducted an extensive investigation into the allegations. More than 25 witnesses were interviewed; sworn testimony was taken from some witnesses; tests were performed to assess the likelihood that certain of the allegations might have taken place.

B. Identities of affiants

John Wolf Leon: a private investigator doing business in the District of Columbia under the name of Allied Investigating Services with offices in the Dupont Circle Building. Leon's affidavit of June 8, 1973, states he had been an investigator for more than 15 years. He died on July 13, 1973.

Joseph W. Shimon: an officer of the Washington, D.C. police force until 1962, retiring with the rank of inspector. Shimon's affidavit of June 25, 1973, states he has been a private investigator in Washington for more than ten years.

Edward Murray Jones: an investigator for a Senate Committee from 1957 to 1960. His assignments included working under supervision of Bellino in Detroit in investigating Hoffa. During the 1960 Presidential campaign, he was employed by the Kennedy Committee for three or four months, generally supervised by Bellino. Since 1967, Jones has been in charge of the U.S. Immigration Office in the Philippines.

C. Identities of other principals

Carmine S. Bellino: Served in the FBI from 1934 to 1945. Thereafter, he operated his own accounting office; his clients, for the most part, were Congressional committees and governmental agencies, under contract. During the period from 1957 to 1960, Bellino Associates, Inc., had a business relationship with Leon's firm with regard to delinquent accounts of Remington. When the Senate Labor investigation was completed in 1959, Robert Kennedy asked Bellino if he would be of assistance in the campaign if John Kennedy decided to run for President. Bellino states he first became involved in the 1960 Presidential campaign in September of 1960.

Oliver William Angelone: a Special Agent of the FBI from 1951 to 1954. He was a self-employed private investigator in Washington, D.C., from 1959 to 1964. Thereafter, he became Deputy Field Director of Investigations, New York Region of GSA, and for the last two years he has been Director.

John Joseph Frank: former FBI and CIA agent. In 1960, he was a lawyer in Washington, D.C. located in a suite in which Angelone also had space.

D. Summary of allegations contained in the affidavits of Leon, Shimon, and Jones

The allegations are divisible as follows:

1. Electronic surveillance of Republican officials and campaign activities in 1960.

2. Physical surveillance of Republican officials and campaign activities in 1960.

The first category of allegation is obviously the more serious, more directly relevant to the principal jurisdiction of the Select Committee and to the focus of criticism directed against the Republican Party in 1972, and more easily definable as a possible basis for disqualifying Bellino for employment with the Committee if proven. There was no allegation that illegal means were employed in physical surveillance.

E. Allegations of electronic surveillance of Republican officials and campaign activity in 1960.

1. Allegations by Leon

Leon's affidavit states that on the morning following the Kennedy-Nixon television "debate" (Leon's reference here is in the singular, and it is not clear to which debate he refers), Angelone said, "Jonesy really did his job well this time." Leon says that Frank and a third man were present in Leon's office at the time of this remark. Leon says he is "confident that Ed Jones and Oliver Angelone successfully bugged the Nixon space or tapped his phones prior to the television debate." Leon states that Leon and Jones did other surveillances (non-electronic) of Republican officials for Bellino, and that Jones told him that Jones could not spend much time with Leon on surveillance because he had "several good wiretaps going for Bellino". Leon recounted that Jones told him that he had tapped the telephones of three ministers in the Mayflo er Hotel in the fall of 1960. According to Jones, Bellino suspected that these ministers were responsible for some of the anti-Catholic anti-Kennedy literature that was distributed during the 1960 campaign.

With respect to Angelone, Leon said, he "possessed sophisticated bugging and wiretapping equipment, and had the nerve needed to tackle eavesdropping activity. He also had master keys to hotels in Washington, D.C., including the Carlton and Mayflower.[1]

2. Allegations by Shimon

Shimon's affidavit states that Angelone told Shimon "he was doing some work for Carmine S. Bellino, who was supervising investigative activity" for the Kennedy Committee. Shimon says Angelone told him that Republicans campaigning for Nixon planned to occupy the top two floors of the Wardman Park Hotel (Wardman became Sheraton in 1957, but some continue to call it by the previous name); that Angelone planned to install eavesdropping devices in that space and solicited Shimon's assistance to gain access to the floors; that Angelone suggested keys be obtained and the security force "taken care of"; and that Angelone requested Shimon's participation as a member of the bugging team. Shimon stated he declined to participate.[2]

3. Investigation

In his sworn testimony before the Committee, Shimon essentially reiterated the account in his affidavit and added that Angelone identified Bellino as a man who worked for Robert Kennedy; that Kennedy thought a lot of Bellino and Bellino would head the FBI if John Kennedy were elected; that Robert Kennedy wanted a technical surveillance on suites that would be occupied by the Republican party on the top floor of the Wardman Park Hotel; that Angelone said that Bellino had asked him to have the job done "for Bobby"; that the purpose of the installation was to find out what was going on in the Republican campaign; that operating expenses were to be kept to a minimum; and that Angelone, as a contribution to the Democratic Party, would not charge any fee. In addition, Shimon testified that Leon had told him that he had actually assisted Jones on the wiretaps, rather than had merely been told about them by Jonas, as indicated in Leon's affidavit. Shimon advised the Committee that when Leon had mentioned participating Jones on the wiretapping, there had never been any references to Bellino.[3]

Angelone also testified under oath. He stated that he never was requested by Bellino or anyone else to engage in any electronic surveillance during the 1960 campaign, that he did not engage in such activities, that he never asked Shimon to participate, and that he has no information that Bellino participated in or asked anyone else to participate in electronic surveillance in that campaign. In sum, Angelone denied having had the conversation described by Shimon or the conversation with Bellino which Shimon said Angelone described to him. Angelone further denied making the statement about "Jonesy" attributed to him by Leon; Angelone testified that at that time he did not even know Jones.[4] Concerning Leon's statement that he possessed "sophisticated bugging and wiretapping equipment" and had master keys to hotels in Washington, D.C., Angelone said he had no such equipment or expertise in the use of such equipment or keys but would turn to Shimon if and when he needed them.[5]

Frank appeared for an interview at the Committee offices. He stated that he had no knowledge of electronic eavesdropping of any kind during the 1960 campaign. He further stated that he never heard a comment to the effect that Jones really did his job well this time and did not recall being in Leon's office the morning after one of the Nixon-Kennedy debates.

In Jones' affidavit submitted to the Committee by Chairman Bush as part of the original allegation, Jones denied any participation in or knowledge of electronic eavesdropping of Republican officials or anyone else in the 1960 campaign.

Jones reiterated this position in a telephone interview conducted of him in the Philippines and specifically denied Leon's purported quotation about his having good wiretaps for Bellino and being the world's greatest wiretapper.[6] He also denied having any expertise in the field of electronic eavesdropping. Jones said that he worked for several months in the 1960 campaign, that he was paid something over $100 per week, and that his principal duties involved searching names in the library for biographical data and checking phones of one or two Democratic officials to insure they were not tapped.

Harry Thompson, an investigator for Leon identified himself as the third man present on the occasion of the alleged remark by Angelone. He says someone commented to the effect that with Jones' help the debate was easier for Kennedy. He cannot recall who said this, but the same person also said that Thompson and Jones "did a beautiful job." Thompson does not recall any statement to the effect that Kennedy had the debate all wrapped up. Thompson presumed that remarks referred to a physical surveillance Thompson and Jones conducted for Leon to identify the source of anti-Catholic literature. Thompson told the Committee staff that Leon described Jones to him as the top "bugging" man in the country.

Bellino, during the 1960 campaign, was in charge of tracing anti-Catholic literature. He volunteered his services to the campaign and received no compensation. In both an interview and affidavit Bellino denied participation in wiretapping or other electronic surveillance in the 1960 Presidential campaign. (A copy of Bellino's affidavit is attached hereto.)

Bellino's affidavit includes the following statement:

"I categorically and unequivocally deny that I have ever ordered, requested, directed or participated in any electronic surveillance whatsoever in connection with any political campaign, nor have I any knowledge of such activities in any campaign with which I was associated."

Theodore C. Sorensen, who served as Senator Kennedy's principal aide in the 1960 campaign, has furnished an affidavit denying any knowledge of electronic surveillance of Republican space, or that Bellino ever engaged in any illegal activities in the campaign. Sorensen said that he prepared or supervised the preparation of every piece of information transmitted to Kennedy in preparation for debate and saw no evidence of electronic surveillance.

Leonard W. *Hall* and Robert C. *Finch*, Campaign Chairman and Campaign Director, respectively, of the 1960 Republican campaign have advised the Committee that they saw no evidence of any electronic surveillance

Footnotes at end of article.

of space occupied by them during the campaign. Both said that they believed that the campaign space was periodically checked for any electronic surveillance installations, and none was ever located.

Most of the persons who worked for Leon in his office during 1960 have been interviewed. No one interviewed has any knowledge of any electronic surveillance for political purposes. One employee of Leon in 1960, Lloyd H. Wise, refused to be interviewed. Wise claimed that he could not furnish any useful information, but acknowledged that he is acquainted with Bellino.

Although there was no allegation that electronic eavesdropping equipment was actually installed at the Wardman Park, the investigation sought to establish whether the Republican campaign, in fact, occupied space in 1960, particularly during the late summer or early fall, which is when Shimon said that Angelone spoke to him about eavesdropping. It appears that while individual Republican officials may have taken rooms for use as residence at the hotel during the late summer or early fall of 1960, there is no evidence that the campaign leased such space. The present management at the hotel has advised us that records more than seven years old have been destroyed. Interviews with Hall and Finch, two of the top campaign officials in the 1960 Republican campaign, as well as with other individuals indicated that during the months of August through the election the campaign was housed at 1145 19th Street, N.W. The Republican National Committee Headquarters was at 1625 I Street, N.W., throughout 1960. Earlier in 1960, although no later than May or June, according to Finch and Hall—well before the Convention in late July and the television debates in late September and October—the Republicans occupied a portion of the eighth floor of the Wardman Park, about six rooms at the end of one of the wings. In addition, Hall, who had his office in the 19th Street Headquarters, and Arthur Sommerfield, a campaign official, lived at the Wardman Park and Cliff Folger, active in the finance area, occasionally utilized space at the hotel.

F. ALLEGATIONS OF PHYSICAL SURVEILLANCE OF REPUBLICAN OFFICIALS AND CAMPAIGN ACTIVITIES IN 1960

1. Allegations by Leon

Leon's affidavit states that during the 1960 campaign he was retained by Bellino "to infiltrate the operations" of Albert B. Hermann, an official of the Republican National Committee that; "following an unsuccessful attempt to penetrate the office operations of the Republican National Committee, I was instructed by Carmine Bellino to place 'Ab' Hermann under physical surveillance, and to observe the activities of and visitors to Mr. Hermann's office, utilizing field glasses from my office, a nearby vantage point. Additionally I attempted to pick up conversation in Mr. Hermann's office, utilizing an electronic device known as 'the big ear,' aimed at Mr. Hermann's window from a nearby vantage point." Leon said this activity occurred for five or six days in September or October of 1960, and the results were reported to Bellino, who was assisting Robert Kennedy. Leon also said that Frank and Jones assisted him in surveilling Hermann on two or three nights each, the services of Jones being made available to him by Bellino. Leon's affidavit states that during the 1960 campaign, Bellino was also directing Frank, Angelone, and Jones in efforts to obtain information concerning Nixon's activities and strategy.

2. Allegations by Jones

Jones' affidavit, in addition to denying knowledge of electronic eavesdropping, reflects that Jones participated in two surveillance efforts during the 1960 campaign. Two or three teams and cars were used in the surveillances. Although he could not identify the subjects, he assumes that they were Republican officials or supporters. One surveillance took place at National Airport from where they attempted to follow an individual coming to Washington and the other involved an individual with offices in the vicinity of 19th and M Streets, N.W., Washington, D.C. Jones recalled that Bellino was present at one or both surveillances.

3. Investigation

In a telephone interview Jones reiterated the contents of his affidavit. With respect to the surveillance at National Airport, Jones said that the man they were supposed to follow was not located. As to the other surveillance, Jones said that he accompanied another person in the latter's car. Jones stated that he didn't know if Leon was involved in either of these surveillance efforts. He repeated that these were the only surveillances in which he participated and said he had no knowledge of "Ab" Hermann or any surveillance of him that involved observing him with field glasses or a "big ear".

During a staff interview, *Bellino* acknowledged that Jones may have been used once on a physical surveillance. Bellino explained this as being related to an expected meeting of ministers and the distribution of anti-Catholic literature. Bellino was asked to see if the organizer of the meetings, former Republican Congressman O. K. Armstrong, would be in touch with Republican leaders. Bellino sent several persons to the Washington Airport to watch for the arrival of Armstrong. He thinks his two sons were on the team, and perhaps Jones, although he did not go himself. Bellino has no recollection of what occurred at the airport, but states that at the time of a meeting of anti-Kennedy ministers in the Mayflower Hotel, he was in the lobby to observe if any Republican officials were participating. Bellino has no recollection of another surveillance in the business district of Washington. He cannot recall that he asked Leon to do any work for him in connection with the 1960 Presidential campaign. Further, Bellino stated that he didn't know of or authorize any surveillance of Hermann during the 1960 campaign and, specifically, had no knowledge of the surveillance of Hermann as described in Leon's affidavit.

Armstrong denies that he was an organizer of the Mayflower Hotel meeting. He states that he was an invitee to a meeting of churchmen, as well as some laymen, in Washington to pledge support for the election of Nixon. He denies that the meeting was anti-Catholic and he states that Dr. Peale made no remarks at the meeting which could be considered anti-Catholic. Armstrong told the staff that Dr. Peale spoke extemporaneously. He also said that during one of the speeches at the Hotel meeting, someone drew back the stage curtain and discovered a man with a tape recorder. Armstrong attributes verbatim media accounts of Dr. Peale's speech to this recording.[7] During Armstrong's visit to Washington on this occasion, he went to the offices of Hermann to talk about prospective speaking engagements.

Angelone denies he engaged in any surveillance for Bellino; he stated that he attempted to locate a hotel registration for Bellino. He believes Bellino may have told him the person for whom he was checking was a clergyman, and Angelone thinks he established that this person was staying or had stayed at the Wardman Park. Angelone has a recollection of asking Shimon to assist him in securing the registration card of this person, but cannot recall any report from Shimon and cannot recall what, if anything, was reported to Bellino.[8] Angelone believes the record check related to Bellino's effort to trace anti-Catholic literature. Angelone says he never heard of Ab Hermann until he read of him in the newspaper recently. Angelone thinks some mention may have been made to him, perhaps by Bellino, of a check to see if a printing firm on 7th Street had made anti-Kennedy leaflets.

In an interview *Frank* stated that on one or two occasions in the early 1960's he assisted Angelone. One time he went with Angelone to National Airport on a surveillance detail. Frank also remembered riding in a car with Leon when Leon stopped and went into the Mayflower Hotel while Frank stayed in the car. Leon returned and said that the person they were supposed to follow was not there. Frank thinks Leon told him that this was in connection with the campaign, but he cannot definitely recall.

Thompson, Leon's investigator, reported that Leon had a "big ear" in the back of his car which he showed to Thompson in the fall of 1960. It was from 24 to 36 inches in diameter. Leon told Thompson that he had it for a "particular job."

Thompson advises that he was instructed by Leon to work with Jones on a physical surveillance. Leon told Thompson that Jones was the top "bugging" man in the country. Thompson's instruction was to place a vehicle under surveillance and to observe whether or not its occupants picked up or distributed anti-Catholic literature. Thompson and Jones located a panel truck which was at a church on East Capitol Street. They surveilled it to an alley between 19th and 20th between M Street and Dupont Circle. They observed literature being loaded into the truck, and then followed it to the alley behind the Sheraton. The surveillance was discontinued when the driver apparently became suspicious and left without unloading. Thompson said that he thinks Jones identified the source of the material, a printing company. The next day, Thompson and Jones returned to the Sheraton where Jones said they were waiting for some ministers.[9]

Albert B. "Ab" Hermann, the alleged subject of Leon's surveillance was interviewed. Leon's affidavit states that he was retained by Bellino to place Hermann under physical surveillance. Leon reported the results of his efforts to Bellino.

Mr. *Hermann* advised members of the staff that during the 1960 campaign he was Executive Assistant to the Chairman of the Republican National Committee and Campaign Director of the Republican National Committee. He said, however, that he had very little to do with the Presidential Campaign, but was involved instead with working with State organizations. During this period Mr. Hermann worked out of two offices: the Republican National Committee offices at 1625 I Street, N.W., or the campaign headquarters located at 1145 19th Street, N.W., near M Street.[10]

FOOTNOTES

[1] The staff obtained a letter from Leon addressed to a Washington, D.C. attorney dated October 5, 1967, in which he recited much of the material contained in his affidavit, including his surveillance of Albert B. "Ab" Hermann, a Republican official in 1960, and Jones' statement to him that he was tapping telephones of ministers at the Mayflower. However, this letter makes no reference to Bellino. In addition, Leon said that Angelone and Frank told him that they had been recruited by the Democrats to do electronic eavesdropping work in the 1960 campaign. Some of these statements turn up as early as December 21, 1965, when Leon was interviewed by Bernard Fensterwald, who was then Counsel to the Subcommittee and Administrative Practice and Procedure of the Committee on the Judiciary of the Senate. Fensterwald has some recollection that Leon may have told him that Bellino asked Leon to do political surveillance, that Leon said he would do physical surveillance but could not handle electronic work and that Jones undertook the electronic work.

In addition, in August the staff made an

Footnotes at end of article.

appointment to see Buckley concerning his investigation, including his interview of Leon (now deceased), in view of the fact that the latter's affidavit is unclear in certain areas. Although certain notes of interviews conducted by Buckley were furnished by Jerris Leonard, the attorney who supervised the investigation that led to Chairman Bush's allegations, Buckley was not made available for interview until October 8. At that time he produced handwritten notes of his interviews as well as additional notes of Leonard. The notes and Buckley's recollection were substantially in accord with the language used by Leon in his affidavit.

[2] Shimon's affidavit states that this conversation in part took place in Angelone's office on Jefferson Place. Angelone informed the Committee that he did not occupy space on Jefferson Place until 1961. Frank, however, told the Committee that he and Angelone shared space on Jefferson Place beginning in June or July of 1960.

[3] Shimon also testified that in 1960, soon after his conversation with Angelone, he related this conversation to the late Senator Bridges, for whom Shimon had been assigned to do investigative work, and Philip Guarino, a restaurateur and a Washington, D.C., city official and now an official with the Republican National Committee. Guarino was interviewed with respect to this conversation and stated that he recalled being told by Shimon in 1960 that Angelone talked with Shimon to solicit Shimon's help in "getting the goods on Nixon". This was in the context of installing a tap or bug. Guarino said that Shimon mentioned about five names to him, including Bellino, but he could not recall the context in which Bellino's name came up. Guarino could not recall whether Robert F. Kennedy's name was mentioned by Shimon.

[4] Buckley's notes of his interview with Angelone contain the following statement: "He (Angelone) said it was subsequently reported to him that eavesdropping devices were installed in the quarters of Protestant ministers at the Wardman Park Hotel, Washington, D.C. He cited Mr. Bellino as the source of this information." Buckley reiterated this in an interview on October 9, 1973. Angelone, however, stated that he never made this remark to Buckley. During the staff's interview of Buckley, he acknowledged that he had not asked Angelone for an affidavit, saying that Angelone had provided him with "nothing of significance."

[5] Shimon confirmed that he possessed the equipment and keys and said that Leon was in error when he attributed possession of these items to Angelone. Buckley's notes of his interview with Leon indicate, however, that Leon said that it was Bellino who possessed the sophisticated bugging and tapping equipment. Bellino denies having owned this type of equipment in that period.

[6] Jones voluntarily submitted to a lie detector test administered in the law offices of Jerris Leonard in connection with Leonard's interview of Jones. Jones was asked a series of questions as to whether he participated in or had knowledge of any taps or bugs against Republican figures in the 1960 campaign. The examiner concluded he was truthful in denying any such participation of knowledge. The examiner, however, concluded that there were signs of deception when Jones denied telling anyone that he was the world's greatest wiretapper or that he had tapped Hoffa's phones.

[7] Bellino advised the staff that he had been provided with a copy of a draft of Dr. Peale's speech from an individual whose identity he cannot recall who told him that he had recovered the draft from a wastepaper basket. There is no testimony that Bellino was involved in or aware of this recording of Dr. Peale's speech.

[8] Shimon has no recollection of this incident.

[9] Thompson said that in the fall of 1960, Leon complained that he did not make any money on the Wardman (Sheraton) surveillance. Leon complained that Angelone "made all the money". Ruth Dice, Leon's receptionist, advised that staff that she recalled a surveillance at the Wardman in late 1960 and that Angelone talked about it and appeared to be very much involved in it. She also said that Leon had complained that Angelone received most of the money from the case and that Leon received little. Angelone denied receiving any compensation for work in the campaign and no other evidence was developed that Angelone, in fact, received compensation. Buckley advised the staff that Leon was bitter toward Angelone because of his belief that Angelone profited from the 1960 campaign.

[10] While Hermann's window at his 19th Street office was not visible from Leon's office window at 525 Dupont Circle Building, it was visible from a window opposite his office in the hallway, from which Leon told Buckley he observed "all coming and going" from Hermann's office. However, it was difficult, although not impossible, to see into Hermann's window which was three blocks away, even using field glasses of 15 power, as evidenced by photographs taken by the Committee staff.

Mr. ERVIN. The third member of the subcommittee, namely, Senator GURNEY, dissented from the report of the majority of the subcommittee.

I ask unanimous consent that a copy of Senator GURNEY's dissent be printed in the RECORD.

There being no objection, the dissent was ordered printed in the RECORD, as follows:

SUBCOMMITTEE TO INVESTIGATE ALLEGATIONS AGAINST CARMINE S. BELLINO—MINORITY VIEW

Senators Talmadge and Inouye have concluded that "there is no direct, competent, or credible evidence to maintain the charges against Bellino that he participated in electronic eavesdropping or in the planning of electronic eavesdropping in connection with the 1960 Presidential Campaign. . . ." Because I do not think that this conclusion fully reflects the evidence disclosed by the investigation and because there is omission of the aspect of physical surveillance. I wish to append this Minority view to the Subcommittee's report to the full Committee.

The findings of fact agreed upon by Subcommittee Counsel are also to be submitted to the full Committee. These findings illustrate the complexity and difficulty of proof in relation to the charges. They reveal upon examination that the charges are not unfounded. Corroboration exists in many respects. But what is meant by the term "charges"?

Presumably, the Majority use of the term "charges" refers to allegations in affidavits which were the basis for the announcement by George Bush. The distillation of the allegations is that Bellino (and those acting in association with him) was responsible in 1960 for planning or executing electronic surveillance of Republican Campaign quarters, for physical surveillance of Republican officials, and for electronic surevillance of ministers suspected of distributing anti-Catholic literature. The Majority conclusion deals only with the first allegation and seems to disregard the testimonial nature of the affidavits themselves. The affidavits are more than charges; they can constitute credible evidence. Nevertheless, the investigation has developed considerable corroboration in addition to the affidavits.

Substantial and material portions of testimony by various witnesses are in conflict. I will not lengthen this document by an exhaustive analysis. But hard decisions are required where witnesses dispute key elements. How can we resolve the questions?

Shimon testified in detail about Angelone's contact with him concerning the desire of Robert Kennedy and Carmine Bellino to eavesdrop by electronic means on space to be occupied by the 1960 Republican Campaign. Angelone and Bellino make denials of this.

Consideration then must be given to the question of whether any evidence is available to persuade one to believe Shimon or to disbelieve him, or to believe or disbelieve Angelone, or Bellino.

Although not conclusive, it would be some corroboration if Shimon repeated to someone else what was said to him by Angelone immediately after hearing it. Our interview with Phillip Guarino reveals Shimon did this.

A close examination of the sworn testimony of Angelone reveals several contradictions with the accounts of a number of other persons. Though no one of these would be sufficiently material in itself, taken together they derogate to the veracity of Angelone. Thus, his denial of complicity in a material issue becomes suspect.

1. Angelone denied he performed any duty for Kennedy in the West Virginia primary campaign.

Frank told us that Angelone said he had gone to West Virginia with the Kennedy's.

Quistort, an employee of Leon, told us that Angelone worked for Kennedy in West Virginia.

Mrs. Dice, Leon's receptionist, stated that Angelone had traveled with the Kennedy Campaign.

2. Angelone denied participation in any political surveillance in the 1960 Campaign.

In addition to the affidavit of Leon, Leon's letter of October 5, 1967 to his attorney states that Angelone (and Frank) were recruited for the Kennedy Campaign to "black bag" (enter surreptitiously) rooms in the Mayflower Hotel.

Fensterwald's March 15, 1966 notes of interview with Frank state "1960 Campaign . . . Angelone does surveillance around Mayflower." Mrs. Dice told us that Angelone talked about a late 1960 physical surveillance at the Wardman Park and appeared to be very much involved in it.

3. Angelone denied he assisted in the protection of Mrs. Kennedy during a 1960 Campaign event in Washington, D.C.

Thompson, an employee of Leon, told us that Thompson, Angelone, and others were sent to assist in protecting Mrs. Kennedy at a meeting just before the Election.

4. Angelone denied that he occupied space on Jefferson Place in 1960, with regard to an averment in the affidavit of Shimon. Angelone said he shared space with Leon.

Shimon stated that Angelone had space on Jefferson Place.

Frank said that he and Angelone shared space on Jefferson Place in 1960.

Thompson and Dice told us that Angelone did not have office space with Leon in 1960.

5. Angelone averred that he received no compensation for the only work he did in the 1960 Campaign, to wit: check a hotel registration at the request of Bellino.

Thompson told us that Leon complained that Angelone made all the money on the Wardman surveillance.

Mrs. Dice said that it was her impression that Angelone received most of the money that came out of the Wardman Park case.

6. Angelone denied any knowledge of electronic surveillance in the 1960 Presidential Campaign.

Buckley states that Angelone told him of eavesdropping devices on ministers at the Wardman Park and that Bellino was the source.

Thus, Shimon is not the only person with whose testimony Angelone's testimony is in conflict. This, then, leads an observer to

give greater credence to Shimon's statements than to Angelone's.

Jones has denied statements attributed to him by Leon concerning wiretaps on ministers at the request of Bellino. Is Jones to be believed or Leon?

The conclusion of a lie detector examination to which Jones submitted was that he showed signs of deception when he denied telling anyone he had tapped Hoffa's telephone, and when he denied describing himself as the "world's greatest wiretapper." Although it was concluded he was being truthful when he denied having knowledge of any bug or wiretaps on a Republican official in the 1960 Campaign, he was not asked if he tapped the ministers, if he participated in any surveillance of Hermann, or if he was involved in any plan to install a bug or tap in Republican quarters.

Moreover, there is a good measure of corroboration to Leon's affidavit in that he made similar statements concerning Jones to Shimon in 1962, to Fensterwald in 1965–1966, and to his attorney in 1967.

The following additional facts are worthy of mention:

1. Mrs. Leon recalls her husband was hired by Bellino in 1962; she believes he was hired to locate the source of anti-Catholic literature; and she believes her husband may have mentioned Ab Hermann to her in 1960 (Bellino has no recollection of any of the things Leon says concerning Hermann.).

2. Leon and Angelone each received letters of appreciation from Robert Kennedy in November 1960 for their help in the Campaign.

3. Any documentation of remuneration, if of significant amount, would tend to show more than casual or an isolated instance of assistance to the Kennedy Campaign. Angelone has said he has no records pertaining to the 1960 period. Bellino has searched without success for any documents, including tax or payroll records, in his possession relating to September or October of 1960.

Bellino's own denial must be weighed in the balance. Are his assertions of impartiality credible? In addition to the partisan nature of his physical surveillance work on behalf of the Kennedy Campaign, we must take cognizance of a full-page ad in the Elizabeth, New Jersey *Daily Journal* on October 29, 1968 which was paid for by "Carmine S. Bellino." The ad attacks then Vice President Nixon for "Hoffa's Delay in Prosecution" and for obtaining Hoffa's support, and urges readers to vote for Humphrey and Muskie.

On the whole, while there is some credible evidence that Angelone was asked by Bellino to do preliminary work for the installation of eavesdropping derives in space which it was thought would be occupied by the Republican Campaign, there is no credible evidence that such was ever effected. The weight of the evidence pertaining to the preliminary work, however, is not sufficient to establish culpability beyond a reasonable doubt.

I do not think that a decision to discharge an employee must necessarily be predicated on clear, convincing, and uncontrovertible proof. Bellino's long record of service to the Government works in his favor and imposes a heavier burden of proof. This is rightly so. The evidence of electronic surveillance of Republican officials leaves a lingering doubt, but is not sufficient to require discharge. Nor is the sworn statement of Leon (since deceased) that Jones (in the employ of Bellino) tapped phones of ministers suspected of anti-Catholic literature of sufficient weight to require discharge. Jones and Bellino each deny tapping the ministers.

Bellino's complicity in physical surveillance is well-established. Bellino admits involvement in a physical surveillance at the airport in the 1960 political campaign. He relates this to his effort for Kennedy to locate the source of anti-Catholic literature and to ascertain any connection with Republican Campaign officials. He makes denial of any specific surveillance of Ab Hermann. Leon's affidavit gives us direct, first-hand evidence that he was instructed by Bellino to surveil Ab Hermann. One of Leon's investigators, Harry Thompson, tells us that he and Jones surveilled to truck which picked up literature, probably from a printing company, but the surveillance did not estaplish to whom it was to be delivered. Jones acknowledges participation on behalf of Bellino in surveillances at the airport and in the business district of Washington, D.C. He cannot recall the details. Frank said he may have participated in one or two physical surveillances while working for Bellino in the 1960 Campaign. Angelone admits searching for hotel registration for Bellino, but denies surveillance activities. Angelone said he received no compensation, but two of Leon's employees tell us that Leon complained that Angelone got all the money on the Wardman surveillance case. Without question, there was a physical surveillance activity by Bellino directed toward establishing the source of anti-Catholic literature. Undoubtedly, he thought it had relationship to the Republican Campaign.* The only remaining question is whether he directly surveilled Republican figures for this or any other purpose, or whether surveillance instituted to trace the dissemination of literature tangentially involved Republican figures. Jones assumes one or both of the surveillances in which he participated were to follow Republican figures. Leon states that Ab Hermann, a Republican official, was his specific assignment.

In conclusion, the Minority summarizes its report as follows:

1. There is agreement with the Majority report that there is no direct evidence to sustain the charges of electronic surveillance by Bellino.

2. There is, however, some credible evidence of contemplated electronic surveillance, although there is much conflicting testimony.

3. There is some evidence which derogates to the credibility of witnesses who deny planning of electronic surveillance on the part of Bellino.

4. The charges pertaining to physical surveillance have indeed been proven.

5. Since Mr. Bellino is a member of the Majority Staff, the Minority does not feel it is appropriate on the basis of the evidence developed to voice its position on whether his employment should be continued.

Senator EDWARD J. GURNEY.

NOVEMBER 13, 1973.

Mr. ERVIN. I am constrained to state that I concur fully in the report of a majority of the subcommittee. Indeed I am constrained to say that if the charge against Mr. Bellino had been made in a court of law, the court would have had to reject the charge on the ground that there was not a scintilla of competent or credible evidence to sustain it.

I became a member of the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations shortly after I became a Member of the Senate some 19 years ago. Mr. Bellino was employed by such subcommittee at that time. He was employed by the Senate Select Committee on Presidential Campaign Activities at my instance because I had high admiration for his ability to investigate and analyze financial data, and because I had complete confidence in his integrity. In my judgment, he is a faithful public servant of exemplary character.

*No evidence has been developed showing the Republican Campaign was in any way responsible for the 1960 literature described as anti-Catholic.

THE ROLE OF THE FEDERAL GOVERNMENT IN HIGHER EDUCATION

Mr. FANNIN. Mr. President, the Chronicle of Higher Education recently published the recommendations of the Newman Committee on the role of the Federal Government in higher education. This report is both significant and controversial in terms of the direction it advocates for Federal support of postsecondary education. In this context, this report should be widely disseminated for comment and criticism with the expectation that such views will be reflected in the continuing congressional debate over the extent and scope of the Federal participation in education.

Mr. President, I ask unanimous consent that this article from the Chronicle be printed in the RECORD.

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

LET COLLEGES VIE FOR STUDENTS, UNITED STATES IS URGED

(By Cheryl M. Fields)

WASHINGTON.—The controversial task force on higher education headed by Frank Newman of Stanford University has issued a final general report calling for vastly increased flexibility in access, financing, and accreditation of postsecondary education in America.

Established to advise the Department of Health, Education, and Welfare on the future direction of federal support for post-high-school education, the eight-member task force urged federal planners to "choose forms of assistance which maximize the incentives for institutions to compete for students, and minimize the risks of deliberate or inadvertent federal intrusion into institutional operations."

The task force asserted that competition, rather than federal regulation or more state control "is a more desirable means of achieving public accountability" and fulfilling social goals.

LISTS THREE FEDERAL ROLES

Mr. Newman, the task-force chairman, is director of university relations at Stanford University.

In its final report, the group recommended that the federal government should concentrate on the "effective exercise" of three specific responsibilities:

"The responsibility to preserve an open society and the conditions necessary for a free competition of ideas."

"The responsibility to overcome inequities facing specific individuals and groups."

"The responsibility to support research, development, and other 'strategic interventions' necessary for effective service which no other level of government can make," particularly information collection and policy analysis.

As private colleges and universities find it increasingly hard to compete with lower-priced public institutions, the report suggested that "the federal government should give priority to strategies of postsecondary finance, particularly revision of its programs of student aid, which would narrow the tuition differential between public and private institutions without compromising the autonomy or independence of either."

STUDENT AID STRESSED

A member of the task force said, however, that this recommendation was not meant as support for recent—and controver-

sial—proposals that tuition at public institutions be raised to correspond with the much higher rates at most private institutions.

Rather, he said, the task force meant that serious consideration should be given to such programs as one included in the 1972 higher education legislation which would give federal matching grants of up to 50 per cent to states which allocate increased funds for student scholarships.

Most of the recommendations in the task force's new study mirrored those in its first report, issued early in 1971.

The latest document, however, included somewhat more detail on how the task force's recommendations could be carried out.

It also offered more of a philosophical framework for such recommendations as:

Funneling aid primarily through students, rather than giving it to institutions.

Establishing new, more pragmatic kinds of postsecondary education which fit student needs, rather than trying to fit all students into current institutions.

Attempting to achieve efficiency "through concentration on effectiveness rather than cost."

Reversing the trend toward "centralization of educational decision-making."

Separating the determination of an institution's eligibility for federal funds from the traditional academic accrediting process.

OTHER REPORTS DUE

Within the next month or so, the task force expects to issue separate special reports on accreditation, educational technology, and the regional examining universities that it has proposed to examine individuals and to give them academic credit and even to grant them degrees for "skills and knowledge acquired in a variety of ways."

Other special reports may be issued on teacher education and the role of women in postsecondary education, although a final decision has not been made.

New institutions and increased possibilities for "recurrent" education must be formulated, the task force said, to make the goal of equal access to postsecondary education a realistic goal. Obviously, not all students will function well in the current lecture-hall, term-paper format, the task force said, and institutions must begin to be judged on "the educational value added."

"A community college which helps bring about significant changes in students of lower initial skills should be judged more effective than a prestigious university which does little more than admit able students and graduate them undamaged four years later," the task force said.

UNDEREMPLOYMENT OF GRADUATES

While fully backing the goal of equal access and opportunities for lifelong learning, the task force noted that current projections indicated there would continue to be a "general underemployment" of many college graduates throughout the 1970's, at least in terms of the "traditional expectations" of higher social status and income related to college attendance.

"At current levels of college attendance," for example, the task force said, "each year the economy must absorb new entrants to the job market in approximately twice the proportion as currently exist in the total work force and, in even larger proportion, new entrants who have attended college but are not graduates."

"Compared to other sophisticated societies in the developed world, such as West Germany, Sweden, or Japan, the American economy already absorbs at least twice the percentage of college graduates as the next nation, and again an even larger share of non-graduate college attendees," the task force noted.

While the academic community has always argued that a college education is valuable for both society and the student, the task force said, "behind that rhetorical front there has been a quiet argument for a second value—that of a college credential as a guarantee of a good job, high income and social status," a guarantee that now seems to be disappearing.

A REAL CHOICE

"The fundamental values of a general education have been put forward as useful preparation for a productive life, for social responsibility and for personal fulfillment," the report said. "But if these values are to be the yardstick, then it is essential to insure that academic programs do indeed provide an education that is effective for these purposes. A re-examination and renewal of all of postsecondary education and particularly of liberal education may therefore be the most important agenda item of the 1970's."

Whatever renewal is necessary, the task force appears confident that if students are provided with adequate information and enough financial aid to let them make a real choice, they will be more responsive to economic and social realities than institutions have proved themselves to be.

AVOID INSTITUTIONAL AID

For these and other reasons, the task force sticks to its controversial position that, whenever possible, aid should go to students, rather than to institutions.

The National Board on Graduate Education last June sharply criticized the task force's special report on graduate education, saying its proposal to channel most aid through graduate students overlooked the relationship of graduate education to research, public service, and overall university "vitality."

"We believe both policy and operational considerations indicate that the federal government should stay away from general institutional aid or broad attempts at regulation in postsecondary education," the Newman report said. "If past experience is any guide, either is likely to generate a chain of events capable of inflicting major damage on the educational community."

Copies of the task force's latest report, combined with its original 1971 report, will be available Jan. 2 from the Massachusetts Institute of Technology Press.

AGENDA FOR REFORM: HEW TASK FORCE RECOMMENDATIONS

WASHINGTON.—Following is the section of the report, "National Policy and Higher Education," that contains the chief recommendations of the special task force established by the Department of Health, Education, and Welfare that was headed by Frank Newman, director of university relations at Stanford University.

We believe there must be a new concern on the part of the federal government for the effectiveness of American postsecondary education. Throughout this report, we have tried to describe what that can mean in educational terms. In summary, we believe that greater effectiveness in postsecondary education requires moving toward the following:

More conscious and deliberate choices by young people as to whether to go to college, when to go, and what kind of institution or program to attend—aided by the widespread availability of information about the nature of programs and institutions.

Greater opportunity for individuals to return on a recurrent basis to a full range of educational programs.

More focused and more responsive institutions, each of which has a clear purpose and mission—all of which compete for students and resources on the basis of the effectiveness of their educational programs.

A deepening of the effort to translate into educational reality the social commitment that higher education in all its facets is to be available to and effective for all segments of the population—specifically minorities, women, students beyond the traditional college age, and students of limited income.

Increased recognition of and legitimacy for the role proprietary, industrial, cultural, and community organizations can play in providing postsecondary education.

More resources for new educational enterprises and more flexible accrediting so that those with promise will have an opportunity to prove themselves—and more emphasis on the flow of public resources on a competitive basis so that ineffective institutions, public or private, may face the eventuality of demise.

More serious effort to improve the effectiveness of every type of program from liberal arts to vocational training through the clarification of institutional objectives, the development of realistic means to assess achievement of objectives, and better ways to relate the resources used to the objectives attained.

A more open system of education and only such restrictions on the entry to careers based on educational credentials as are needed to ensure the protection of society.

A CONSCIOUS ROLE

We believe the federal government should play a conscious role in helping to achieve these educational objectives. The approach it takes in doing this is critical. Throughout the report, and often in greater detail in the various position papers of the task force, we have proposed specific federal policies, programs, and actions. While each proposal deserves its own careful analysis and detailed description, in summary we propose that the federal government should consider the following recommendations:

In allocating future increases of support to postsecondary education, the federal government should choose forms of assistance which maximize the incentives for institutions to compete for students, and minimize the risks of deliberate or inadvertent federal intrusion into institutional operations. To the extent appropriate in each program, the question "Who gets what?" should be determined by student choice rather than legislative formulas or administrative decisions; therefore we recommend that, wherever feasible federal support for postsecondary education flow to students rather than to institutions.

We believe that greater exposure of students to the productive activities of society outside schooling would help make college opportunities more valued and increase the ability of students to profit from the classroom experience. Accordingly, we recommend that the federal government place increasing emphasis on work-study and internship forms of student aid funding, and undertake new efforts to upgrade the jobs in these programs into significant productive experiences. Specifically, we recommend that 20 per cent of work-study funds be allocated on an incentive basis to institutions willing to upgrade the work component into a significant learning experience.

We further recommend new federal legislation, a "G.I. Bill for Community Service," designed to legitimate breaking the educational lockstep for a period of service in selected national, regional, or local community programs. The benefits, like those of the G.I. Bill, would accrue during the period of service and could be used later whenever the volunteer chose to enroll at a postsecondary educational institution. This program would supplement existing federal student assistance, and extend the concept of service, in addition to need and academic ability, as a legitimate basis for the award of federal student aid.

The issue in graduate education today is not growth, but reform; not the shortage

of needed manpower in various fields, but the need for improved training in certain fields. The problems of the 1970's include the under-representation of minorities, the growth of new programs in institutions reaching for "university status" while institutions of acknowledged excellence decline in enrollments, and the lack of innovation and responsiveness throughout graduate education to major social needs. Federal concern, therefore, should shift from the quantity of manpower in various fields to the kind and quality of this manpower.

The interest of students in entering fields of greatest career opportunity, in attending programs of high quality, and in preparing themselves to meet real social needs is substantially congruent with the national interest in reform. Accordingly, we recommend that basic federal support for graduate education shift from fellowship and traineeship funds provided to institutions to portable fellowships, allocated directly to students, together with companion grants to those institutions which students choose to attend.

We also propose that graduate fellowship recipients be selected on broader criteria than grades and tests, criteria which will be indicative of the contribution the student will make to society after graduation. We further propose the use of project grants to assist in the development of more effective graduate programs in social service fields and new areas of concern.

For all students and all types of institutions, there is a need to know if the educational process is effective. In addition, the key to overcoming many of the obstacles to equity, social mobility, and cost effectiveness in postsecondary education lies in the standards and processes by which institutions assess individual progress and award credentials. Present testing and grading methods fail to identify talent beyond the purely academic, and predict mainly how well a student will perform at the next level of schooling—not his performance or contribution to society after graduation. Since the institutionalization of the credit hour as the basic unit of education, the processes of assessment and credentialing have been related more to time than performance.

To meet new needs for equity and excellence, we recommend:

(1) Long-term support for the development of ways, going beyond paper-and-pencil examinations, to evaluate mastery of proficiencies needed for success in various fields of endeavor, and

(2) Support of start-up costs for the establishment of examining agencies capable of awarding credentials on the basis of proficiencies individuals have achieved, regardless of how or where these proficiencies were acquired.

Increasing public and governmental pressure for performance and accountability in higher education has produced some new concern for efficiency in recent years, but has not arrested rising educational costs. Now, colleges and universities face the unpleasant spectre of imposed management controls, such as uniform cost-accounting procedures, which symbolize efficiency but bear little relationship to real increases in educational effectiveness. On the contrary, if such controls introduce rigidities into institutional resource allocation, they can easily impede progress toward increased eduactional effectiveness.

This situation has come about, in part, because of the reluctance of faculty and administrators to recognize its urgency, but also because there is little helpful research on cost effectiveness in higher education. Economists have tended to focus on cost factors, assuming that degrees awarded or incomes after degrees measure the results of education. Psychologists, sociologists, and others interested in personal development have only recently begun to compare the effects of alternative structures and environments on student learning, but rarely in terms of the resources utilized.

Therefore, we recommend that the federal agencies engaged in research and demonstration grant funding such as the National Institute of Education undertake experimental, inter-disciplinary research in cost effectiveness as one of its major higher education initiatives.

Standards of training and competency in many occupations are essential for consumer protection. All too often, however, such standards become the means for limiting entry to careers. To remove unjust and artificial barriers to entering careers, and to the pursuit of recurrent patterns of education and work, we recommend that the federal government adopt a more vigilant anti-trust posture relative to the activities of the organized professions.

As first steps toward a new federal policy, we recommend:

(1) A clarification of federal law and regulatory responsibility as between the Department of Justice, the Federal Trade Commission, and the mission-oriented domestic agencies relative to the activities of non-profit professional groups, and

(2) A thorough investigation, by responsible federal agencies, of (a) requirements for graduation from professionally-accredited institutions as a prerequisite for admission to certifying and licensing examinations, and (b) examination requirements unrelated to the proficiencies needed to protect consumers and successfully practice one's profession.

In many programs, the federal government has delegated its responsibility for determining eligibility of institutions for federal funds to accrediting agencies, which render judgments on the basis of interests and standards which often differ from those appropriate to the national interest. In order to adopt a more neutral and equitable national posture regarding the range and type of institutions and programs capable of providing postsecondary education, and in order to clarify the roles and interests of all parties engaged in evaluating institutions—including the academic professions, regional collections of academic institutions, the states, and the federal government—we recommend that the process of determining eligibility for federal funds be clearly distinguished and separated from the process by which accrediting agencies judge institutional performance.

To this end, we propose a national procedure for determining eligibility based primarily on an institutional disclosure statement that provides more useful information for the potential student and the general public and an administrative judgment that an institution has the capacity to perform its stated mission.

There still remains the important traditional role of the accrediting agencies in assisting institutions to determine how well they are performing their missions. To help develop new skills in this area, we recommend federal support for research and development of performance criteria and new assessment techniques.

To develop the data and analysis needed for informed policy making, we recommend creating a new statistical agency and an upgraded analysis and data collection policy for the Education Division of the Department of Health, Education, and Welfare. Collection of information was the first role assigned to the Office of Education, but today the resources, capabilities, and the support for this task fall far short of comparable federal efforts to generate information for policymaking in economic policy, employment or science. The new statistical agency, designed to establish a new leadership role of the federal government in the collection of educational data, should integrate the policy analysis and data collection functions, now performed by separate units. A revised data-collection policy should include an expansion of the universe of educating agencies on which data is collected and a greatly increased emphasis on longitudinal studies of the effect of different educational environments on students.

In the last two decades, the federal government has spent billions of dollars on efforts to bring educational technology into useful services. Unfortunately, the vast majority of projects has failed to produce lasting applications, despite the generally accepted belief that communications technology should be capable of providing workable solutions to many of the problems that beset education.

We believe the reasons for this failure can be traced to an inadequate understanding of the conditions necessary for the successful application of technology to education; and we propose a set of standards which we believe federal agencies would be wise to use in assessing future projects that envision the use of technology for educational purposes.

The guidelines are:

(1) Educational programs must be planned for specific target audiences;

(2) Educational objectives that are relevant to the needs and interests of a target audience must be clearly understood and agreed upon;

(3) A systematic multi-media approach must be used in which both knowledge and media specialists are employed in the production of materials;

(4) Persons who are capable of learning to use the instructional characteristics of various media must be available or be trained to staff the effort;

(5) Clear and careful provisions for significant personal interaction (both student-student and student-faculty) must be made; and

(6) Evaluation and feedback arrangements must be used to monitor audience reactions and to change the instructional materials to suit learner needs.

Where these standards have been met in the past, projects have been substantially more likely to succeed.

Federal incentives and funding have played a major role in the opening of postsecondary education to minority students. Substantial problems remain, however, and there are indicators that the public commitment is waning. We believe that this country should recommit itself to educational opportunity for minorities.

Specifically we believe the federal government should:

(1) Develop a program of national fellowships at the graduate level with criteria for selection that will aid, among others, many of the talented minority students now completing their undergraduate training; and

(2) Continue the support for black and other ethnic colleges which play a critical role far beyond the numbers they educate, but insure that this funding is focused as an incentive toward helping these institutions achieve a viable and competitive role in postsecondary education without the need for permanent federal support.

Three types of barriers continue to block women from full participation in higher education and the life of society: overt discrimination by admissions officers, employers, and others; institutional barriers, such as rigid residency requirements or inflexible personnel policies; and ingrained assumptions about the role of women in society.

In recent years, the federal government has employed its regulatory powers toward ending overt discrimination. We believe it should continue to do so until such discrimination is eliminated. But continued progress will necessitate greater reliance on financial assistance programs (*e.g.*, work study, cooperative education, graduate fellowships and internships) which can open access to

new careers and professions, and incentive grant programs which can overcome institutional rigidities which discourage participation.

Finally, the federal government has various impacts on the role conceptions of men and women. Its significance as an exemplary employer is widely recognized. Less recognized, but also important, is its role as an investor in training, education, and service programs which help establish the values and attitudes society considers important.

For example, if programs in professional education and the social services were to recognize the importance of affective values and attitudes, these services would improve.

Since there is a widespread association of women with many of these values, the role of women would also be held in higher esteem. We recommended, therefore, that the federal government review existing programs of support for training and professional education to consider whether they really prepare individual professionals who are simultaneously skilled, effective, and oriented to the service of others.

There is widespread agreement that the encouragement of recurrent patterns of education should become a new national priority. Yet few agree on what strategies should be employed to finance access to postsecondary education on a life-long basis. Many employers have some provision for financing recurrent opportunities for their employees. The Social Security system, pension funds, unemployment compensation, federal student-assistance programs, and new concepts such as the creation of an educational trust fund have all been put forward in recent years, each with a different set of training, educational, and "quality of life" purposes in mind, and each affecting different constituencies. Accordingly, we recommend that the Secretary of Health, Education, and Welfare commission a comprehensive analysis of these financing strategies, develop a forum for the public discussion of the competing priorities and diverse interests involved, and develop an effective program of financing of students during recurrent periods of education.

We recommend that the federal government initiate a new policy of encouraging states to develop strategies for accountability which rely more on competitive forces and incentive approaches rather than on direct and detailed management of institutions from the level of state systems or statewide agencies. We propose that where both state multi-campus systems and statewide coordinating agencies exist, federal policy distinguish clearly between the two. Specifically, we propose three initiatives:

(1) Federal matching grants to states which undertake student-aid programs which provide funds directly to the student assisting the student to attend any postsecondary institution of his choice to which be can gain admission;

(2) Federal support on a matching basis for state competitive grant foundations, equal to perhaps 1 per cent of the state's annual budget for postsecondary education, designed to provide incentives to institutions and faculties for program development and innovative approaches along lines determined to be in the state interest;

(3) Federal project grants to states for planning and demonstrations of different governance structures and accountability procedures, including experiments in budgeting and institutional evaluation.

Rather than simply funding the establishment of uniformly constituted 1202 Commissions, we recommend selective, demonstration-grant funding for different approaches to the state planning role.

The existence of public and private institutions, competing for students on the basis of the effectiveness of their educational programs, improves the whole of postsecondary education. To preserve the conditions necessary for this competition to continue, the federal government should give priority to strategies of postsecondary finance, particularly revision of its programs of student aid, which would narrow the tuition differential between public and private institutions without compromising the autonomy or independence of either. The vitality of both public and private campuses, their ability to differentiate themselves and the possibilities for creation of new educational enterprises are importantly affected by funds from private donors and foundations. In the reexamination of federal tax policies care should be taken to enhance this flow of funds and encourage a broader participation of the public in educational philanthropy.

Since World War II, federal support has created a vast reward system of resources, legitimacy, visibility, and prestige for institutions and faculties engaged in academic research. We recommend that the federal government now consciously address itself to the creation of comparable incentives and rewards for those concerned with teaching and learning and with the establishment of new educational enterprises. Existing agencies such as the National Science Foundation or the National Endowment for the Humanities should be sources for the expansion of the federal government in this area, as should the activities of two new agencies, the National Institute for Education and the Fund for the Improvement of Post-Secondary Education.

TASK FORCE "GUIDES FOR FEDERAL ACTION"

WASHINGTON.—Following is the section entitled "Guides for Federal Action," from the report of the special task force established by the Department of Health, Education, and Welfare.

On all fronts, not just in post-secondary education, the federal government has found itself dealing with problems of ever-greater subtlety as the role of government has become more extensive and society has become more complex. Determining the effectiveness of a given federal program is becoming harder and harder.

For example, it is more difficult to understand how effective federal aid has been in supporting the evolution of the black college, or what changes have occurred in student life experiences through the University Year for Action, than it was to measure the results of programs of a decade ago aimed at stepping up the construction of new buildings or doubling the annual number of Ph. D.'s graduating in physics.

Yet despite this greater complexity, there is a growing demand on all levels of government for evidence that programs are, in fact, producing useful results, that they are not producing undesirable side effects, and that they are doing this at a cost which makes the investment worthwhile. Failure to demonstrate such results quickly can lead to disenchantment and to demands for more regulations, which, in turn, often leads to larger bureaucracies—a seemingly inexorable and counter-productive cycle.

IMPORTANT STAKES

Both the agencies of the federal government and the beneficiaries of its programs have important stakes in developing more effective means of evaluating program results. It is simply no longer acceptable for those involved to say either, "Leave it to us, we know what we're doing," or "Education is so complex it can't be measured." The process of education *is* complex, but it is possible to generate useful measures. Far too often, the goals of a program are not defined realistically and when they are, frequently *no* attempt is made to measure the results against them.

We do not mean that federal agencies should become mechanistic in their approach to accountability, routinely applying standardized evaluation procedures to each program. In responding to the pressures for measuring results, there should be a healthy skepticism in the application of quantitative analysis to the evaluation process. There is a recurring tendency among those concerned with program evaluation to emphasize those things that can be counted most easily. These measures in turn become normative both for the programs and ultimately for the educational process.

Education lends itself poorly to this approach. There is no single "objective" measure of educational success comparable to return on investment as used by the businessman to measure disparate enterprises on a common scale. There is a great need for evaluation of the effectiveness of federal programs in education, but much to learn about how to accomplish it.

DANGER IN CONSOLIDATION

What the federal government has done best in postsecondary education is to establish programs of student aid and programs of competitively awarded grants such as those for university-based research. For effectiveness and equity in such efforts, the most functional and adaptive system of federal involvement requires a plurality of federal agencies and programs. Our national penchant for simplified organizational structure makes the preservation of such pluralism difficult. It seems so sensible to place all research in the National Science Foundation, all student aid in the Office of Education, and so on.

But there is a danger inherent in bureaucratic consolidation. If all research were centralized at the National Science Foundation, one view of priorities for research might well come to dominate, one set of contacts with researchers could become all-important. It might become harder for certain types of new ideas and new researchers to have a fair hearing.

ANTICIPATION DIFFICULT

It is difficult for any one group to anticipate all of the new avenues to the solution of a problem. Federal roles (and national interests) often conflict with each other. All too frequently the attempt is made to solve all problems with one program.

Instead, there is a need for many focused programs, each effective in its own way, the sum of which matches our national requirements. There are unquestionably too many federal programs in too many federal agencies affecting postsecondary education today. In the drive to reduce the overlap, the needed degree of pluralism must be preserved.

When other federal approaches are employed, such as discretionary grants or regulation, care must be taken to limit the expectations aroused in the Congress, the Administration, and the nation at large. Many times the results are far from those intended. When government regulates, for instance, the regulated often gain control of the regulatory process. Regulation is best used sparingly and reserved for those circumstances where no other means to insure goals of equity is available. The federal bureaucracy is a clumsy and blunt instrument for social action, not readily adapted to delicate adjustments in the education community.

Before action is taken, there is a need for the gathering of information, for analysis, and for debate. For the segment of society supposedly devoted to the practice of scholarship, the statistical data on higher education and the related research studies necessary for planning are embarrassingly thin. Some of the most significant federal programs in higher education have been instituted with little or none of the careful analysis necessary to determine what unexpected consequences might result.

Too often, the organized higher education community itself has stifled debate, prefer-

ring the appearance of unanimity to the benefit of open consideration of alternatives. In many areas of postsecondary education, it helps to try out new programs on an experimental basis before support is provided on a widespread national basis. This is true not only for support of new types of institutions now seeking federal aid, such as open universities, but also for system-changing programs which can be tried out on a regional or local basis first. And, as federal programs shift from concern with expanding access to support of experimentation and innovation, there must be an expectation within government of occasional failure.

We believe the federal government is most effective when it uses incentive as opposed to regulatory methods, and specifically that it has been most effective through programs of student aid and programs of competitive research grants. Further, we believe both policy and operational considerations indicate that the federal government should stay away from general institutional aid or broad attempts at regulation in postsecondary education. If past experience is any guide, either is likely to generate a chain of events capable of inflicting major damage on the educational community.

NEWMAN PANEL ON THE FEDERAL ROLE IN HIGHER EDUCATION

WASHINGTON.—Following is a portion of "National Policy and Higher Education," the report of a special task force established by the Department of Health, Education, and Welfare and headed by Frank Newman, director of university relations at Stanford University. This section deals with the federal role in higher education.

Federal influence has grown steadily in the post-war period. Both the state and federal share of expenditures have grown until they each now represent about 30 per cent of the total. Any thoughtful analysis of the federal role must, therefore, take into account the role of the states. Theirs antedates the federal role, tracing a lineage all the way back to support for the first American college by the Massachusetts Bay Colony in 1636.

But, historically, the state and federal roles have been very different. Basically state governments have been operators of certain of the institutions of higher education and the federal government has been a funding agency for special concerns.

There has not, however, been a single federal-state division of labor. In university-based research, for instance, the federal is dominant in funding, planning and evaluation, while states pay a supporting role only. In the field of civil rights, federal regulatory powers are used to force institutions and states to alter policies of racial discrimination. In the heyday of construction support, the federal government served as a supplementary funding agency, helping to support hardpressed institutional or state capital budgets.

We believe there should be consciously different federal and state roles and that the relationship should vary depending in the objectives. There are some aspects of postsecondary education where the federal government is the only agency of government charged with the responsibility for action (as in Affirmative Action or R.O.T.C. and others (such as research) where it is the most logical. But there are also roles that we believe to be inappropriate—for example extending its role as a direct operator or as a general patron of institutions.

The federal government should not operate as a 51st state. As federal agencies become more deeply involved in postsecondary education, there is a natural temptation for them to slide into regulation of the organization and operation of institutions (in response to the frustrations felt within the federal government) or into general subsidies (in response to pressures from the colleges and universities). We believe this would be both ineffective and dangerous.

For the public institutions this would mean that federal funds would to a large extent substitute for state funds and the institutions would be left to cope with the regulations of one on top of the other. For private institutions it would mean a diminution of autonomy and an increasing tendency to turn toward the federal government rather than the education marketplace for direction. For the federal government it would mean the need to develop federal standards defining eligibility (with the need for a federally defined credit hour of standard of enrollment) as well as a diversion of its attention and resources from its appropriate roles.

Because American society is dynamic, the federal role in postsecondary education must continue to evolve. More problems are becoming national rather than local or regional as society becomes more complex and Americans more mobile. Federal involvement will likely continue to increase. In light of the changing nature of the problems, it is important that there be a federal role that is effective without imposing a new level of bureaucracy on the American educational community.

THREE RESPONSIBILITIES

The foundation for a new federal role in postsecondary education exists in the more effective exercise of three responsibilities:

The responsibility to preserve an open society and the conditions necessary for a free competition of ideas.

The responsibility to overcome inequities facing specific individuals and groups.

The responsibility to support research, development, and other "strategic interventions" necessary for effective service which no other level of government can make.

ROLE NO. 1: GUARANTEEING OPENNESS AND COMPETITION

The federal government has historically and for most sectors of society established the ground rules designed to preserve options for individuals and competitive conditions for institutions. Thus, in regulating relations among private economic groups, the federal government plays the leading role in restraining monopolies which threaten to destroy the competitive conditions of the marketplace. On behalf of minorities and, more recently, women, the federal government has intervened to begin to lessen discrimination in all facets of our society.

Now, in education, new expectations and changing conditions have given rise to a new set of issues. Financial, legal, and academic barriers continue to restrict the movement of individuals from institution to institution. Many of these, including admissions policies, non-transferability of credits, and lack of articulation, are beyond the pale of legitimate federal regulatory action, though they may be subject to federal incentives. Others, such as tuition requirements for out-of-state students, are matters with which the courts are now struggling to define appropriate roles and responsibilities.

But some restrictions, including many of the limitations on where and when students may use federal student assistance, are federally imposed and can and should be removed forthrightly. In most instances, the direction of movement is toward openness.

In the case of movement from education into productive roles in society, however, things seem to be becoming more restricted. The trend, shaped largely by the roles which self-governing professions and occupations play in establishing certification requirements in various fields, is toward arbitrary increases in the number of years of schooling required for entry into a career. Here, therefore, we believe there is a need for a more vigorous federal role with regard to the activities of accrediting and licensing groups.

CONDITIONS CHANGING

The conditions under which institutions can compete on the basis of the effectiveness of their educational offerings are also changing rapidly. Two primary trends emerge. First, private institutions are rapidly losing the capacity to compete with the lower-priced public institutions. Second, the new powers of higher education—the multi-campus systems and the statewide coordinating and governing boards—are, without necessarily intending it, reducing the degree to which public institutions compete with one another and with private institutions.

The federal government, we believe, has an important role to play in all of this. It should help, not in supporting private institutions as institutions, but in preserving conditions under which they can compete effectively with public institutions, for the good of the entire educational community. Similarly, in view of the expanding domain of postsecondary education, the federal government should be concerned with establishing ground rules for fair competition so that the process of education is not needlessly confined to a single class of institution.

With regard to the development of multi-campus systems, the federal government faces new and untried issues.

AN ANTI-TRUST AGENT

In a number of states, the consolidation of public campus control and the competitive pressures on private institutions may soon create a new problem. Is there a danger that they will become higher education monopolies? Should nonprofit conglomerates which provide social services be treated differently from profit-making conglomerates providing goods and services in the market economy?

We believe that the federal government will have an increasingly important role to play as an agency of anti-trust in education. A philosophy of anti-trust need not mean that the federal government confronts such issues on narrow legal grounds, or that its approach toward state agencies be a negative one based primarily on regulatory remedies. Rather, in its posture toward federal-state relations, we believe the federal government should assume a new role—that of creating incentives which will encourage state agencies toward openness, flexibility and competition *within* their systems.

Too often in establishing procedures for interacting with the states, federal attention has been devoted primarily to organizational tidiness and bureaucratic convenience. The federal government has attempted to insure that there are state agencies to administer federal programs, representation from all segments of higher education, a state plan for postsecondary education, and lately "comprehensive" state planning.

Little attention has been focused on the impact these decisions have on the educational community, on whether the state planning that has resulted matches federal objectives, or whether it results in more effective education for the student. Attempts to control state action through mandated planning often result in a planning process that becomes primarily a vehicle for capturing a larger amount of federal grants rather than serving as a true measure of educational needs. Programs tend to become uncoupled from the reality of the campus, resulting in such problems as the recent overbuilding of dormitory space.

OPPORTUNITIES FOR FEDERAL PROGRAMS

Yet there are opportunities for federal programs that both aid state agencies and encourage institutional and individual autonomy. For example, it is possible to devise programs which help separate the management role for the multi-campus system from the coordinating and planning role of state coordinating agencies. The latter need real powers to influence institutional behavior

without becoming another layer of institutional management concerned primarily with the organizational or financial problems of the institutions. Potential federal approaches include funding incentives that encourage a coordinating agency focus on the student's and the state's needs for education, such as:

Matching federal funds for state scholarship and fellowship programs.

Partial federal support for a state fund for project grants to support innovative educational programs in public or private institutions (equal perhaps to 1 per cent of the state's budget for postsecondary education).

We also believe that federal programs that fund students directly should take into account some part of the difference in institutional charges so as to allow students a greater choice, encouraging responsiveness to public need by the individual campus, whether public or private, with less need for central direction.

ROLE NO. 2: EFFORTS TO EQUALIZE OPPORTUNITIES

The federal government has played a major role in equalizing opportunities.

Federal student aid has assisted millions of students from low-income families. Federal regulatory efforts have been employed against the discrimination against minorities and women. Programs such as Upward Bound, Talent Search, and Special Services for the Disadvantaged support efforts to recruit educationally disadvantaged students to college and then help them adjust to college environments. Direct institutional assistance, such as the Developing Institutions Program, provides additional resources to institutions serving high proportions of minority students.

Nevertheless, the principal thrust of these programs remains that of a strategy of access supplemented by a strategy for changing the attitudes and skills of the incoming students to increase their chances of survival in the institutions they attend. Even taking into account special programs such as veterans' early entry, black studies and other cultural-awareness programs, or special tutorial and support services, it remains an inescapable fact that the basic forms and process of postsecondary education have changed little to meet the needs of these new student populations.

STUDENTS ADJUST TO COLLEGE

With a few notable exceptions the students have been expected to adjust to the college rather than the colleges changing in fundamental ways to accommodate to the needs of the student.

While many students will continue to benefit from existing federal policies and programs, the limits of this approach must now be recognized, and more basic structural innovations undertaken in behalf of new categories of students.

For capable but "non-academic" students more concrete, task-oriented modes of learning must replace the passive, abstract style currently institutionalized in most colleges and universities.

For students who are talented but not at ease with the dominant culture and the institutions which transmit that culture, as for example many native Americans or inner-city blacks, new institutions must be developed which will turn the students' cultural traditions into an educational advantage.

For the many talented women students who are barred from effective opportunities by the time and place requirements of contemporary education, alternative structures and new means of finance must be devised.

Thus, we believe there should be a new federal role in supporting a second generation of effort in providing opportunities to American citizens, just as once, 110 years ago, the federal government provided the incentives for the creation of the land-grant colleges to meet the needs of a new student population.

ROLE NO. 3: STRATEGIC INTERVENTIONS FOR EDUCATIONAL EFFECTIVENESS

Some tasks are best accomplished *nationally*, through federal action, because no other level of government has the perspective, capacity, or leverage to perform them.

Information collection, policy analysis, and program evaluation are all tasks which call for increased and much improved federal action. As to information-gathering, it is easy to forget that from 1867 to the late 1950's the principal role of the Office of Education was "to collect such statistics and facts as should show the condition and progress of education." Congress strongly reaffirmed that role in the 1972 legislation but at the same time the budget for statistical work was cut without a clear appraisal of the need for adequate information for policy-making.

We believe that in examining the "condition and progress" of post-secondary education, the range of programs that should be included, the depth of analysis required and the scope of debate needed far surpass the historical and current role of the Office of Education.

In research and development, another traditional federal role, past federal efforts have been slender and not always focused on key problems. Information is needed on almost every pedagogical and management issue—how do students learn, why and under what conditions; what result does learning have on their future or society's progress; how are resources used and to what effect—a lengthy and urgent list. This deficiency has now been recognized and a new initiative has been undertaken with the establishment of the National Institute of Education.

Experimentation and demonstration, as well as funding of new ideas and practices, are also tasks which the federal government is often uniquely able to perform. National perspectives are often needed in the evaluation of projects; national as against regional or local competition is often required for proposals of high quality; and national incentives are required for investments in many areas. Thus, breakthroughs in effectiveness—including new measures of assessing student performance—are tasks which will require, in our judgment, greater federal initiative.

SENSE OF LEGITIMACY

Finally, while not often the direct and explicit purpose of federal programs, the power of the federal government to attract attention to an issue or to provide a sense of legitimacy for ideas or institutions cannot be overlooked. The public statements of federal officials, the debates of Congress, or the reports of federal commissions create issues for the entire country to consider. Federal operations, such as conferences, consultantships, and other forms of involvement, confer status and rewards so that a federal concern for effectiveness in teaching will help to reinforce growing campus efforts to create a reward system for teaching excellence. Even low-budget federal programs, such as the program for language and area studies, can legitimate, as no other social force can, the importance of certain issues with a multiplier effect throughout the nation.

The federal government can be a catalyst and a source of leadership for reform and innovation, or it can be a powerful force for negativism and retrenchment.

MAJOR SOURCES OF INCOME FOR COLLEGES, UNIVERSITIES, AND PROPRIETARY EDUCATIONAL INSTITUTIONS, 1971–72

[In billions]

Sources of income	Institutional support	Student aid	Total support	Percent of total
Student payments for tuition and other fees	$10.6	$(4.2)	$6.2	20.8
State and local government	8.8	.3	9.1	30.5
Federal Government	4.6	3.7	8.3	27.9
Gifts and endowment earnings	2.5	.2	2.7	9.1
Auxiliary enterprises and other activities	3.5	.....	3.5	11.7
Total	29.8	.....	29.8	100.0

Source: Data of the National Commission on the Financing of Post-Secondary Education as published in "National Policy and Higher Education," the report of a special task force established by the Department of Health, Education, and Welfare.

ADDRESS BY CARMEN R. MAYMI, DIRECTOR, WOMEN'S BUREAU, U.S. DEPARTMENT OF LABOR, EMPLOYMENT STANDARDS ADMINISTRATION, BEFORE THE FIRST SOUTHWEST REGIONAL BUSINESSWOMEN'S CONFERENCE

Mr. DOMENICI. Mr. President, on November 2, I was honored with an invitation to attend the first meeting of the Southwest Regional Businesswomen's Conference in Albuquerque. At that meeting, Ms. Carmen R. Maymi, Director of the Women's Bureau within the Department of Labor, gave some remarks which impressed me very much. I believe the remarks indicate progress but also indicate that we as a Nation must move ahead faster and with confidence that our women can have the right to contribute as business people.

Mr. President, for the past few years, a movement has swept the country—a movement which demands that we all redefine our attitudes regarding sex roles in our society. No longer are irrational myths to be used as an excuse for sexual discrimination. One battlefield on which the old myths are losing the fight is in the business arena. Economic equality surely heads the list of possible arenas where myths should die and it was to this end that Ms. Maymi spoke.

Statistics show that women have been discriminated against in the business world, but women wishing to become independent businesswomen face unique difficulties and hurdles. These difficulties only begin with bank loan privileges, as attitudes of fellow businessmen and employees also act as unnecessary stumbling blocks to success.

Ms. Maymi's remarks outlining the difficult areas and possible roads to success acted as an inspiration to me. I feel that all my colleagues will benefit from her views.

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

ADDRESS BY CARMEN R. MAYMI

I am most gratified that you have asked me to address this conference which focuses on women as business operators and owners. The Women's Bureau, as you may know, is concerned primarily with the welfare of wage

and salary workers under a Mandate from Congress. However, we in the Bureau sometimes receive letters from women who have businesses of their own or who want to start their own businesses and we find that many of their problems are similar to those of women employees.

The common denominator is sex discrimination, for the same factors that keep women out of business enterprises also keep them out of the top jobs that lead to ownership or proprietorship. The same myths about women in the world of work, whether they work for themselves or others, serve as barriers to their economic progress.

The simple fact is that society has not faced up, realistically, to the fact that women are enlarging their role in the economic life of the nation and they have come to a point where they realize their potential and demand equal rights and responsibilities in commerce and industry, in politics and government, and in social and cultural development.

The first hurdle women have to face is a matter of attitudes. Many men and even some women still feel that women's place is in the home. That is a lost cause. In April 1973 there were some 32 million employed women in the Nation, and of those, 368,000 were self-employed managers and administrators. This last figure probably does not tell the whole story but the Bureau of the Census is planning a survey of self-employed women that will give us a more accurate picture by 1974. But the figures indicate how many women have moved out of the home and into the market place. The fact remains that more than 44 percent of all women 16 years and older are in the work force. This percentage is up from 33 percent in 1960 and it is expected to reach 46 percent by 1985. So women workers are here to stay.

The trouble is that most wage earning women are concentrated in low skilled, low paid jobs. Few advance to top management jobs that might prepare them to go into business for themselves or advance to head the firms in which they are salaried employees.

Here again attitudes are a factor. Employers still complain that women are not as capable as men and they are afraid to advance them into executive positions. Similarly, many banks, loan agencies, wholesalers and others with whom business women must deal, are not convinced that women are capable of running a business and they are afraid to loan them money or extend credit to them.

Actually, studies have shown little difference in the capabilities of men and women. A survey by the Johnson O'Connor Research Foundation, for instance, revealed that of the 22 aptitude and knowledge areas measured, there were no sex differences in 14; women excellent in 6 (finger dexterity, accounting aptitude, persuasion and verbal fluency, observation, silograms, and abstract visualization); men excelled in 2 (grips and structural visualization.)

Another myth all women who work have to contend with is the idea that men don't like to work for women and that business men, clients and customers object to dealing with women. There are no solid facts to prove such contentions but there are studies that indicate quite the opposite.

Women have another handicap in that few have had the kind of education that prepares them for excutive and managerial work, whether for themselves or an employer.

In the 1973 Economic Report of the President, where there is for the first time in history a chapter on the Economic Role of Women, we find some significant data on the trends in the education of women. In 1971, for instance, 50 percent of all high school graduates were women, as were 45 percent of all first year college students. In the same year, 44 percent of all bachelor's degrees, 40 percent of the master degrees and 14 percent of the doctorates went to women.

However, women tended to major in English, languages, and fine arts rather than in subjects geared to business and the professions. In 1970, women earned only slightly more than 9 percent of the baccalaureates in business and just under 4 percent of the master's in business. Only 8.5 percent of the M.D.'s and about 6 percent of the law degrees went to women.

So you see, few women come out of school prepared for a career in business. Some, lacking an educational background in business management turn to continuing education programs to get the training and know-how they need. Most community colleges as well as universities and business schools offer courses that would be useful to someone planning a career in business. Many such courses are scheduled at night or on Saturdays when women workers or homemakers can attend.

Experience is, of course, a great teacher and some women who go into business for themselves can fall back on years of experience as salaried workers during which they learned the business from the ground up but never had the opportunity to advance to head of the firm unless they inherited it from a father or husband.

One type of self employment that appeals to large numbers of women is that carried on in the home. Often little is needed except a specialized skill or aptitude. Sewing, typing, cooking and baking, and handicrafts all lend themselves to this type of operation. Sometimes small beginnings lead, eventually, to a large scale business. These kinds of enterprises appeal particularly to women with small children and to older women living on small pensions who find it difficult to work outside the home.

They sometimes write to the Women's Bureau for information and we have prepared a simple fact sheet on "What You Should Know About Offerings to Make Money At Home." We are particularly careful to warn them that many "make money at home schemes" are fraudulent and should be checked out with chambers of commerce, better business bureaus or similar sources. We also send them bibliographies available from the Small Business Administration and refer them to that agency.

Actually, employed women have more legal protections against sex discrimination than women in business do. The Equal Pay Act assures that they get the same pay that men do if they perform substantially the same work. Title VII protects women against discrimination in employment because of sex, and Executive Order 11246 As Amended prohibits sex discrimination in employment under Federal contracts and subcontracts. Revised Order Number 4, issued by the Secretary of Labor to implement Executive Order 11246 requires employers to establish affirmative action programs, including goals and timetables for recruiting, hiring, training and promoting women. This last Order is the most likely to benefit women who want to go into business for themselves, for it means opportunities for training and advancement to executive positions are opened to them so they can gain the experience they need to operate a business of their own.

A major piece of legislation that would benefit both employed women and independent business women is the pending Equal Rights Amendment to the Constitution. It states simply that "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

One reason the Amendment is particularly important to women who want to go into business for themselves is that it would nullify State laws that require married women but not married men to go through a formal procedure and obtain court approval before they may engage in an independent business. State laws placing special restrictions on the legal capacity of married women or on their right to establish legal domicile also would be unconstitutional.

The Amendment has been approved by Congress and ratified by 38 States. We still need ratification in 8 more States before the Amendment becomes law.

The woman's movement as a social force to achieve economic, social, civil and political equality for women is having a terrific impact on our society. More and more opportunities are being opened to women and they are being given a voice in policy making in business, community life and government.

Of course, discrimination against women still exists. And minority women are the victims of double discrimination—because they are women and because they are minorities; sometimes a language barrier subjects them to a third kind of discrimination.

I know your program includes speakers and resource people from the Office of Minority Business Enterprise and I will leave to them the subject of what government is doing in an effort to help minority business women. The Women's Bureau is focusing many of its programs on improving the status of minority women workers and I am sure that our efforts will be reflected in improvements in the status of minority business women.

However, government cannot solve the whole problem. Women must help each other. That is why conferences such as this one are so important. Many women here have achieved success as business women. Other women look to them as role models, as teachers and advisers.

Women who are successful have a responsibility to the women who are on their way up the ladder. They should stretch out a helping hand to those who hope to be independent business women, like themselves, but they should also remember the women who work for wages—perhaps their own employees.

We tend to think of men employers as the chief exploiters of women workers. But I wonder if all women employers are careful to see that the women who work for them have equal opportunity for training, and advancement—equal pay and equal benefits.

I wonder, too, how many successful business women take the time to serve on boards, commissions, and other policy making bodies in the community. How many run for public office? How many let their State legislators and Congressional representatives know how they feel on women's issues.

What I am saying is—we are all in this together. We must work together as women—business women, legislators, salaried employees and home makers to give greater visibility to the needs and rights of women and to give concerted, powerful support to measures to correct the inequities.

TAX INCENTIVE TO HOMEOWNERS WHO INVEST IN ENERGY-SAVING HOME IMPROVEMENTS

Mr. HUMPHREY. Mr. President, last week I was absent on official business as a congressional adviser to the U.S. delegation to the biennial Conference of the U.N. Food and Agriculture Organization. Therefore, I was unable to voice my strong endorsement of Senator Moss' amendment—No. 649—to S. 2589 the energy conservation bill. This amendment would provide a financial incentive for private homeowners who invest in any of a wide variety of energy-saving home improvements.

Before my departure, I had seriously

considered introducing similar legislation. I wholeheartedly endorse the Moss amendment and feel it will be an effective incentive toward energy conservation in the home.

Today, the Consumer Economics Subcommittee of the Joint Economic Committee, which I chair, heard testimony reinforcing the desirability of such an incentive system and specifying the energy savings that would occur.

One industry witness noted that 50 percent of our existing homes waste one-third of their fuel supply simply because of inadequate insulation in our homes. Certainly the incentives called for in amendment No. 649 to S. 2589 must be enacted and the big fuel savings that are possible, realized.

I ask unanimous consent that today's testimony of Mr. George J. Haufler before the Consumer Economics Subcommittee, be printed in its entirety in the RECORD.

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

INSULATION AND THE ENERGY CRISIS

Gentlemen, during the past several months, the people of this nation have been told they may not have enough fuel for their homes and cars, and to support our industries and jobs. We have been warned that we may have to pay exorbitant prices for those fuel supplies which do exist. We have been instructed to drive less, to heat less, and to air-condition less. We have been threatened with school closings for lack of heating fuel and plant slowdowns to conserve energy. We have heard of a "fuel gap"—the difference between our production and our needs.

In short, the specter of potential shortage threatens to affect every aspect of our daily lives.

Virtually all of the programs proposed to reduce our fuel consumption have one thing in common . . . sacrifice. Yet, there are other actions that *can* be taken which do not compromise our standard of living and still enable the ordinary citizen to help ease the Energy Crisis: I refer to energy conservation.

I suggest that, while asking our citizens to cut down on such essential uses as home heat, we focus at the same time on more efficient uses of the fuel which is available. Today I am going to address myself specifically to the question of fuel used for home comfort.

(Incidentally, for simplicity of presentation, I have followed several ground rules. While I make reference to total fuel consumption, the detailed statistics have been related to the heating side of residential fuel usage, since this is the preponderant consumption portion, and is our immediate winter concern. Air-conditioning energy impact is similar and has been included into the summary totals. Secondly, all energy units are expressed in oil equivalents. Thirdly, since insulation is the greatest contributor to fuel conservation, we have confined the savings discussed to those from added insulation. Double glazing, storm windows, storm doors, and weatherstripping can also make a beneficial contribution to reduced fuel usage. These, in combination, can save as much as ⅓ more. Statistics on these savings are shown in a separate exhibit which is available for your information.)

In 1970, 14% of our energy was consumed within the home . . . and over ¾ of this was used for space heating and air conditioning. By 1985, the total fuel consumption in the United States will have doubled, and at current rates, the home comfort uses will have increased by at least 50%.

This increase in usage will certainly keep pace with—and very probably exceed—any increase in fuel supplies. However, it *is* possible today to cut fuel usage without reducing comfort, and to do this at a minimal cost in both energy and dollars.

INSULATION REDUCES HOME FUEL CONSUMPTION

Most of our homes are heat sieves.

A vast amount of the heat generated immediately leaks out through the walls and roof and is lost. Our furnaces work overtime to produce warmth which largely rises to—and out from—our attics. More heat can be saved by proper insulation than by any reduction in thermostat setting that people will tolerate. A fully insulated house can be kept at a comfortable 72°F with no more fuel expenditure than is required to keep a poorly insulated house at a chilly 61°F!

Fifty percent of our existing homes waste one-third the fuel supplied to them just because they are uninsulated. Although the remaining residences have varying degrees of insulation, added together we are needlessly squandering over 20% of the total fuel supplied for home heating—because of lack of proper insulation.

Although FHA insulating requirements have recently improved and are moving toward fully adequate standards, most of today's existing homes and a vast majority of new homes now under construction fall far short of those levels.

I know you are concerned above about quantities, so let me break this down another way. The average uninsulated house of 1,600 sq. ft. of space wastes 700 gallons of fuel oil each year. While partial insulation helps, some 200 gallons of fuel oil or more will still be wasted because of the lack of full insulation.

INSULATION PAYS FOR ITSELF

The dollar cost to the homeowner for insulation is quickly paid back in fuel savings. A typical four-bedroom house, with 1600 sq. ft. of living space, can have the ceilings and walls fully insulated while under construction for $325.00 and generate a payback in two years! A handy homeowner who wants to add insulation in the attic of his existing house can do it in one afternoon for $100 to $200, armed only with a sharp knife and the sure knowledge that his fuel bills will go down. An insulating contractor can do the same job of saving energy and money for the homeowner—for about 50% more—still a reasonable sum when the work pays for itself in two to five years. These savings statistics are for a home in the geographic center of population in the United States. In colder climates like Minnesota, this payback would be as quickly as one year.

The contrast between existing waste and potential savings is startling. That typical 1,600 sq. ft. single family home is consuming 50% more fuel than it would if only 6" of attic insulation were added! A professional insulation contractor or a do-it-yourself homeowner can install 6" of attic insulation in an existing home in one day. This single change not only pays for itself in fuel savings in a short period, but if implemented promptly on a broad scale, would bring about a large reduction in the "fuel gap" in a relatively short period of time.

Adding attic insulation to our existing homes is especially attractive because:

A. The attic is the most accessible space; easiest to insulate.

B. It produces the greatest savings effect, typically over 2/3 of the total savings that can be achieved by insulation.

C. The number of existing homes is so high.

D. Payback to the homeowner is so attractive.

FUEL ALLOCATION CAN WASTE FUEL

All of these energy savings are available only if sufficient quantities of insulation continue to be available . . . a situation which is now seriously jeopardized by the scarcity of fuel and fuel derivations employed in the insulation manufacturing process.

The Federal Government is currently implementing a fuel allocation program to all American industries, including the insulation industry, which threatens to worsen the Energy Crisis almost immediately by shutting down insulation plants.

The insulation industry is unique, in that it is a net *energy conserving* industry, rather than an energy consuming industry. A properly insulated house saves in each and every year of the building's life, *twenty times the amount of energy required to manufacture the insulation.*

In just eighteen days, the energy investment by the nation to provide insulation is paid in full: In thirty years the savings mount to a phenomenal 600 times the original energy manufacturing expenditure! Can you name any other investment which guarantees a 5% return per day *each day* for thirty years or more?

While this payback itself should clearly demonstrate the necessity to keep our insulation plants running, fuel curtailments, and particularly interruptions, make the problem even worse by multiplying the energy wasting impact. To show the critical nature of uninterrupted energy supply, let me explain to you how insulation is made.

The manufacture of insulation, like that of steel, is a high temperature furnace process, but carried on continuously at 2700°F, seven days a week, 24-hours a day. There is no way, with current technology, that insulation can be made in furnaces operating at below the required process temperature. Under certain curtailment circumstances, furnaces would be "banked" to an intermediate temperature of 2100°F, and then have to be idled hot for enough days out of every month to achieve the mandated fuel savings. To stop the furnaces entirely would mean that the materials inside them would harden into glass, and the furnaces would have to be stripped down and laboriously cleaned before they could be restarted.

In moving to "hot idle," temperatures must be reduced gradually, and 50% down to 30% of full fuel input is required. This fuel is completely wasted. Additionally, the time for cool-down and start-up amounts to six days.

Cooling the furnace down completely from 2700°F takes even more time: seven days to cool down and nine days to heat up; a loss of sixteen days.

A sudden curtailment of fuel would destroy the furnace from thermal shock. Eight months of production time would be lost to secure the materials and reconstruct the furnace.

For small reductions in energy, there is a disproportionately larger loss in insulation capacity. For instance, a 10% reduction in energy would result in 15% reduction in output; a 20% reduction in energy would mean a 30% reduction in output . . . and with 30% reduction in energy, insulation production is stopped completely in gas and oil fired furnaces.

This is not a 1975 or 1985 question. A fuel curtailment today would start a perpetual 5% daily drain on the nation's energy bank this December which is compounded daily thereafter.

ALLOCATION MUST RECOGNIZE THE NATIONAL NEED

Let's look at national needs.

This nation will be adequately housed, and construction will continue regardless of the availability of insulation. Family formations alone demand 2,000,000 new units a year.

What happens if insulation production for these new units is reduced so there is not enough insulation to go around? Simply, these new houses, instead of being fully insulated, will be underinsulated—and, in some cases, inaccessible spaces will remain uninsulated forever.

Instead of returning 5% a day to the nation's energy bank, as insulated homes, they will be withdrawing 5% a day from the bank, as uninsulated homes.

With such a large potential of waste that can result from the unavailability of sufficient insulation, I must ask you for relief from fuel restrictions which will be counterproductive when placed on the insulation industry. Such restrictions, in our opinion, would be a penny-wise/pound-foolish policy guaranteed to *increase* energy shortages. While I recognize that energy regulation is a new undertaking, to date the necessity of energy conservation through continued insulation production has not been given any recognition in the allocation of energy supply.

CORPORATE ACTION FOR ENERGY CONSERVATION

Certainly energy conservation is everybody's business, and our own experience indicates that industry can make a significant contribution. We believe this starts at the top by adopting a Corporate policy to stimulate energy conservation within the company. We did this at Certain-teed many months ago, and our internal program consists of three major elements.

1. A specialized management and technical effort directed toward fuel conservation and efficiency improvement programs at the plants and headquarters.

2. The enlistment of broad-based employee support for suggestions and cooperation in implementing job-related energy conservation activities.

3. An educational program for our employees to stress conservation activities in their personal lives and influencing others within their communities.

Following the first phase technical effort, we developed the "Certain-teed Energy Savers Group" to involve all our employees and make each of them an activist Energy Saver at work, at home, in transit, and in the community. This phase of the program is now being implemented in all of our plants to involve over 10,000 employees in such programs as:

Displaying energy-saving bumper stickers, window decals, buttons, and other local promotion material provided;

Savings bonds awards for outstanding energy-saving performance and ideas;

Magazines and a monthly newsletter about the Energy Savers activities throughout the company—and the nation.

A key executive was appointed whose sole responsibility is to coordinate the Energy Savers Program, and outside consultants were engaged.

We have set an objective of 15% reduction in our energy consumption. While this is greater than the national business objective, I am convinced that with this concerted effort, we will achieve at least that goal.

INSULATION CAN OFFSET THE ENERGY SHORTAGE

Now let us examine the quantitative national effect of inadequate insulation versus upgraded and full insulation on the demand for residential energy a few years hence.

As soon as we can add attic insulation to most of our existing housing inventory, 600,000 barrels daily can be conserved. Upgrading to full insulation in new houses to be built in 1974 alone can conserve about 65,000 barrels of oil per day. Each year a similar number of new homes constructed will add similar savings. Starting from the 1973 savings of 65,000 barrels per day, by 1983 the savings in this housing sector will amount to over 600,000 barrels per day.

The balance sheets looks like this:

Existing homes without insulation will require 2.7 million barrels of oil per day. With beefed-up attic insulation, this requirement is reduced to 2.1 million barrels per day.

New homes built after 1973 using current insulation practices will require 1.7 million barrels per day. New homes with full insulation will require only 1.1 million barrels per day.

Total residential heating requirements as they stand now can be as high as 4.4 million barrels per day, but with upgraded conservation efforts, this figure can be reduced to 3.2 million barrels per day, a savings of over 25% of our sizeable residential needs.

Estimated dollar savings to homeowners for heating alone during the decade would total up to $40 billion. So the sooner we move, the closer we approach this goal.

At this point we can add energy savings on air conditioning that result from these same insulation practices. Conservatively, over 200,000 additional barrels per day will be saved for a grand total reduction of 1.4 million barrels daily.

HOMEOWNER AWARENESS AND ASSISTANCE

I have asked you for relief from fuel restrictions to the insulation industry. Now I would like to ask you to consider assistance or incentives for the already overburdened homeowner.

It has long been national policy to encourage businesses to invest in the future of America: I am urging a policy which will encourage American homeowners and builders to make the same kind of investment.

Today, if a man chooses to insulate his new or existing house, he faces financial problems because of increased initial costs. True, he will recoup his investment in fuel savings during the next few years—but today is when dollars are tight and today is when he must spend the money, and today is when he must begin paying interest if he borrows the money, as so many are forced to do. And today is when he may be rewarded by his state and local government by having his house reassessed upwards and seeing his taxes go up—all because he tried to do his bit toward easing our critical energy shortage.

May I suggest a program of incentives enabling American homeowners to make this necessary investment in America's energy future. Such a program might include:

1. Tax credits for a portion of the interest payments on home improvement loans for this worthwhile purpose;

2. Federally guaranteed low-interest loans, fully subordinated to the principal mortgage;

3. Tax investment credit for all or part of the cost of the insulation.

In addition to these incentives, mandatory Federal and State standards requiring full insulation for all new construction are necessary to replace present standards which apply only to FHA financed housing.

Federally funded broad-scale consumer awareness programs to alert homeowners, builders, and others to the energy and cost savings associated with proper insulation, double glazing, storm windows and doors, and weatherstripping are also necessary.

These are a few possible suggestions; you Gentlemen of the Congress will certainly have others.

The cost to our Government would be minimal; the benefits, enormous . . . It would reduce our peak as well as our average energy demands; reduce and help to eventually eliminate our dependence on foreign sources for fuel, and of course, benefit the balance of payments problem which concerns us all.

And, not to be forgotten, is the benefit to our environment. Energy conservation pays a big dividend in helping to clean up our environment by reducing the total consumption of polluting fuels.

CONCLUSION

In the interest of time and clarity, I have focused on residential requirements and have not discussed the similar energy savings from proper insulation in the nonresidential sector. Because of the greater diversity of energy uses within the mechanical systems and structures of commercial and industrial buildings, as well as in piping of the process and utility industries, this potential savings is much more difficult to quantify, but an extremely conservative estimate is that it is 50% or more of the residential savings already outlined.

The total energy savings available simply through good insulation practices is over 2 million barrels per day. Since this represents a significant percentage of our total energy requirements and a much larger percentage of the total energy gap . . . and as a frame of reference is greater than our current total dependence on Middle East oil . . . these programs must be aggressively pursued.

We need not wait for new technology; there is no hardship or sacrifice; and the effect can generate nothing but the many favorable benefits outlined.

Gentlemen, to achieve all of these benefits, it is imperative that:

1. Insulation as an energy conservation industry be guaranteed the necessary supply of fuel and fuel derivatives to remain operative.

2. The programs for awareness and support by the Public Sector be encouraged by your leadership and direction.

I thank you for your attention, and of course, I am available to you now and at any time in the future to help answer questions and provide research information on these matters.

RECOGNITION OF THE ACHIEVEMENTS OF NEW MEXICO 4–H'ERS

Mr. DOMENICI. Mr. President, I am most pleased to print for the RECORD the New Mexico winners named in 24 national 4–H awards programs. Winners, judged on the basis of their achievement, leadership, and personal development in 4–H, were awarded prizes ranging from trips to the National 4–H Club Congress in Chicago this month to savings bonds, radios, certificates, and chances to compete with winners from other States for prizes. Prizes were provided by individuals, private business, and industry and were given to both individual 4–H members and 4–H clubs.

It is my feeling that youth programs such as 4–H illustrate what fine results can be achieved by young people when they are properly motivated and what strong character can be built when youngsters are encouraged to participate in home, school, and community programs. It is my pleasure to congratulate the following individual 4–H winners:

Bernalillo: Darrell Brown and Connie Rein; Catron: Gwynet Hollimon; Curry: Ozena Crosswhite and Bill Locknane; DeBaca: Richard Vaughan; Dona Ana: Elizabeth Cosimati and Becky Jameson; Eddy: Mike Prude, Janet Kemp, and Jackie White; Hidalgo: Loretta Payne; Lea: Jack Duffey and Emma Johnson; Otero; G. B. Oliver III; Quay: Sharon Block, Katherine Hudson, and Tamara Curtis; Rio Arriba: Orlando Sanchez and David Redman; San Juan: Darren Bell, Todd Offerle, Connie Oldfield, Dinna Sheppard, David Woodall, and Tara Harper; Santa Fe: Dean Slade Amiday

and Arthur Roybal; Torrance: Amy Bigbee and Diane Bigbee; Union: Owida Crites; Valencia: Marlene Reid.

PUBLIC BROADCASTING IMPROVES AMERICA'S HEALTH

Mr. HUMPHREY. Mr. President, each year, thousands of Americans die needlessly. They die because they do not know what to do to prevent disease. They die because they do not spot early warning signals and do not seek medical attention until it is too late. They die because they do not know where to go for treatment or because their hospitals and clinics are not equipped to give them the kind of treatment they need.

Tonight, public television is beginning a major new health series that I believe will help prevent many of these needless deaths.

The series is called "The Killers." But it is not about dying. It is about living and staying healthy. The five 90-minute documentaries in the series examine the medical conditions that cause three out of every four deaths in the United States today. Tonight's program covers heart disease. Subsequent programs will examine genetic defects, pulmonary disease, trauma, and cancer.

The programs, I am told, will explain how to avoid disease, what danger signals to look for, what kinds of treatment are available, and what researchers and doctors are developing for the future.

Significantly, there will be an English and a Spanish language version of each of the five programs.

Following each documentary, public television stations in communities across the Nation will broadcast their own "follow-up" programs. The local programs are designed to answer viewer questions, examine local health services, and help community groups launch health projects.

I understand that this remarkable effort is the largest television health project ever attempted in the United States. More than 100 national organizations—ranging from the AFL-CIO to the American Heart Association are supporting the project. Across the country, nearly 1,000 professionals and 75,000 volunteers will take part, according to David Prowitt, executive producer of the series. Bristol-Myers Co. made a grant of $675,000 to make the series possible, and the WNET Science Program Group in New York City produced the programs.

Mr. President, "The Killers" is an excellent example of what public broadcasting is capable of doing. In the past, public broadcasting projects have helped Americans understand drug abuse and veneral disease. And now "The Killers" is helping Americans learn the things they need to know to live longer and healthier lives.

ELIGIBILITY OF SENATOR SAXBE TO BE ATTORNEY GENERAL

Mr. HRUSKA. Mr. President, the bill (S. 2673) relating to the salary of the Attorney General after being reported favorably by the Committee on Post Office and Civil Service, was referred to the Committee on the Judiciary. That reference was for the purpose of receiving testimony on constitutional points involved.

Assistant Attorney General Robert G. Dixon, Jr., prepared for presentation to the committee a splendid analysis of the history of the constitutional provision involved—article I, section 6, clause 2, He dealt with the terms of the bill, and also with the effect of its enactment.

His conclusion is that enactment of the bill and thus repealing the increased compensation for the Attorney General that became effective in 1969, would have the result of avoiding the problem raised by the constitutional provision referred to. The purpose of that provision would be satisfied and achieved.

The principles and precedents cited and discussed by Mr. Dixon's statement are of high usefulness and current interest to Congress and the public.

Mr. President, I ask unanimous consent that the text of Mr. Dixon's statement be printed in the RECORD.

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

S. 2673—RELATING TO THE SALARY OF THE ATTORNEY GENERAL

(Statement prepared by Robert G. Dixon, Jr., Assistant Attorney General, Nov. 19, 1973)

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to appear to give the Department of Justice views on the constitutional aspects of S. 2673, a bill which would reinstate the compensation and other emoluments attached to the Office of Attorney General that were in effect on January 1, 1969.

As you know, the President has announced his intention to nominate Senator William B. Saxbe to be Attorney General of the United States Senator Saxbe began his term of office on January 3, 1969. On that date the statutory salary for the Office of Attorney General was $35,000. During the Senator's term, which does not end until January 3, 1975, the compensation was increased to $60,000 pursuant to Public Law 90-206. This increase became effective in February, 1969.

The salary increase brings into play Article I, Section 6, Clause 2 of the Constitution. That clause, (hereinafter the Ineligibility Clause), provides that:

"No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States shall be a Member of either House during his Continuance in Office.

In my opinion S. 2673, by repealing the increased compensation and emoluments for the Attorney General that became effective during the term for which Senator Saxbe was elected, avoids the problem raised by the Ineligibility Clause by satisfying the purpose of the Clause.

I

Before presenting my views as to why S. 2673 meets the rationale of Article I, Section 6, Clause 2, I shall explain why S. 2673 must be enacted prior to the submission of Senator Saxbe's nomination.

As an original matter I would have read Article I, Section 6, Clause 2 as meaning only that an ineligible Senator or Representative could not be appointed to office—that is, that his commission could not be signed—but that nomination and even confirmation could proceed pending removal of the disqualification.

However, as the President indicated in his November 1973 letter to Senator McGee, our Constitutional practice beginning with President Washington, who presided over the Constitutional Convention, has been otherwise. On February 28, 1973, President Washington withdrew the nomination of William Paterson of New Jersey to be Associate Justice of the Supreme Court on the ground that Mr. Paterson "was a member of the Senate when the law creating the office was passed, and that the time for which he was elected is not yet expired. I think it my duty therefor to decree that I deem the nomination to have been nulled by the Constitution."

In 1883 an opinion of Attorney General Benjamin Harris Brewster advised that "only such persons as are qualified to hold office" may be nominated so that "the nomination and confirmation of an ineligible person must be treated as null, and not as acts upon which an appointment of the person may be afterwards made when his disqualification ceases." *17 Opinions of the Attorney General of the United States* 522.

In light of this constitutional practice, Senator Saxbe cannot be nominated until legislation removing his disqualification has been passed. The President has stated in his letter to Senator McGee that Senator Saxbe will be nominated immediately following passage of such legislation.

II

An examination of the history of the Ineligibility Clause reveals that the purposes of the Clause will be fully satisfied if Senator Saxbe is appointed to the Office of Attorney General following the enactment of S. 2673. Early drafts of the Constitution provided that Members of Congress would be ineligible for any state or federal office during their term of service, and, with respect to federal offices, for an additional year, whether or not there had been an increase in an emolument. An extensive debate on the merits of that provision was held during the early days of the Convention. Farrand, *Records of the Federal Convention* (hereafter referred to as "Farrand"), Vol. I, pp. 379–382; 386–390.

Some members strongly favored this prohibition in order to avoid the "corruption" of British political life which resulted from the appointment by the Crown of members of Parliament to lucrative offices. Others felt that the proposal contained dangers which outweighed its benefits. In particular, it was feared that such a broad prohibition would discourage talented citizens from seeking election to Congress. See, *e.g.*, James Wilson, Farrand, Vol. I, pp. 379–380.

Alexander Hamilton believed that the need to attract able persons to legislative office required that the Inteligibility Clause should provide only that a member of Congress could not simultaneously hold any other office. Farrand, Vol. I, pp. 381–382.

During these discussions, James Madison analyzed what he considered to be the essence of the danger inherent in the appointment of a Member of Congress to an office in the Executive or Judicial branches and proposed a formula which, at a later date, was accepted by the Convention. He epitomized the problem as follows:

"Some gentlemen give too much weight and others too little to this subject. If you have no exclusive clause, there may be danger of creating offices or augmenting the stipends of those already created, in order to gratify some members if they were not excluded. Such an instance has fallen within my own observation. I am therefore of opinion, that no office ought to be open to a member, which may be created or augmented while he is in the legislature." Farrand, Vol. I, p. 380.

The following day he made the following proposal:

"Mr. M(adison) renewed his motion yesterday made & waved to render the members of the 1st. branch 'ineligible during their term of service, & for one year after—to such offices only as should be established, or the emoluments thereof, augmented by the Legislature of the U. States during the time of their being members.' He supposed that the unnecessary creation of offices, and increase of salaries, were the evils most experienced, & that if the door was shut agst. them, it might properly be left open for the appointt. of members to other offices as an encouragement. to the Legislative service." Farrand, Vol. I, p. 386.

At that time, however, James Madison's proposal was rejected. Farrand, Vol. I, p. 390.

Despite this rejection, the problem of Congressional Ineligibility was kept alive throughout the remainder of the Convention. On August 14, 1787, Mr. Pinkney made the argument that Congressional Ineligibility was "*inconvenient* because the Senate might be supposed to contain the fittest men. He hoped to see that body become a School of Public Ministers, a nursery of Statesmen." Farrand, Vol. II, p. 283.

The matter came to a head again when the Committee of Eleven submitted the following new draft of the Ineligibility Clause:

"The Members of each House shall be ineligible to any civil Office under the authority of the United States during the time for which they shall respectively be elected—And no Person holding any office under the United States shall be a Member of either House during his continuance in office." Farrand, Vol. II, p. 483.

Two days later (September 3, 1787), Mr. Pinkney urged consideration of the following language:

"The members of each House shall be incapable of holdings any office under the U— S— for which they or any other for their benefit, receive any salary, fees or emoluments of any kind, and the acceptance of such office shall vacate their seats respectively. He was strenuously opposed to an ineligibility of members to office, and therefore wished to restrain the proposition to a mere incompatibility. He considered the eligibility of members of the Legislature to the honorable offices of Government, as resembling the policy of the Romans, in making the temple of virtue the road to the temple of fame." Farrand, Vol. II, pp. 489–490.

After this motion failed:

"Mr. King moved to insert the word 'created' before the word 'during' in the Report of the Committee. This he said would exclude the members of the first Legislature under the Constitution, as most of the Offices wd. then be created." Farrand, Vol. II, p. 490.

This, of course, involved the serious problem that the members of the First Congress would be ineligible to appointment to the federal offices created by it. As Mr. Pinkney stated:

"The first Legislature will be composed of the ablest men to be found. The States will select such to put the Government into operation. Should the Report of the Committee or even the amendment be agreed to, The great offices, even those of the Judiciary Department which are to continue for life, must be filled whilst those most capable of filling them will be under a disqualification." Farrand, Vol. II, p. 491.

As an aside we may note that William Paterson, who had been elected to the Senate for a four-year term beginning in 1789, and who had resigned in November 1790, after having been elected Governor of New Jersey, could not be nominated to the Supreme Court prior to March 4, 1793. President Washington, indeed, withdrew Paterson's nomination which had been submitted in February 1793. The nomination of Mr. Justice Paterson referred to above is an example of this difficulty.

After Mr. King's motion failed, Mr. Williamson resurrected James Madison's formula, which was then adopted by the Convention. Farrand, Vol. II, p. 492.

A major purpose of the Ineligibility Clause according to its originator is the prevention of the evils which would arise if legislators could benefit from the creation of new offices or increase in the emoluments of existing ones. There is a concurrent consideration noted above by Mr. Pinkney, and also by Mr. Madison and Mr. Wilson,[1] and one perhaps more relevant to the present-day than the question of improper motivation for salary increases. Neither the public, the Executive branch, nor the Legislative branch is well-served by a prohibition so broad that it overcorrects and needlessly deprives members of Congress of opportunities for public service in appointive civil offices. S. 2673 would overcome the former evil regarding emoluments by preventing Senator Saxbe from obtaining the benefit of the 1969 salary increase and any other emoluments, without wastefully barring him from offering his services to the country in an appointive office.

Nothing in the history of the Ineligibility Clause suggests that a strict literal interpretation should be adopted in cases where the action in question is totally consistent with the purpose of the Clause.

III

In addition to the history of the Clause, several telling precedents support our view that enactment of S. 2673 would remove any constitutional bar to Senator Saxbe's appointment. The first involved the appointment of Senator Lot M. Morrill as Secretary of the Treasury. Senator Morrill was elected to the Senate in 1871 for a term ending in 1877. In 1873, cabinet officers' salaries were raised from $8,000 to $10,000 but returned in 1874 to $8,000. Nevertheless, Senator Morrill's nomination in 1876 was confirmed by the Senate, without any challenge based on the Ineligibility Clause.

The second involved the appointment by President Taft of Senator Philander Knox as Secretary of State. A measure with the same purpose as the bill under consideration today was passed by the Congress in February 1909 in order to permit Senator Knox's appointment in March to the incoming administration of President Taft without offending the purpose of the Ineligibility Clause (35 Stat. 626). Senator Knox had been elected in 1905 for a term expiring on March 3, 1911. In 1907 the compensation of the Secretary of State had been increased from $8,000 to $12,000. The bill passed the Senate without debate (43 Cong. Rec. 2205), although debated at some length in the House (43 Cong. Rec. 2390–2402, 2403, 2408–2415). An unofficial opinion of Assistant Attorney General Russell (commenting on the bill reducing the Secretary of State's compensation to $8,000) reasoned that because the sole purpose of the prohibition was to destroy the expectation a Representative or Senator might have that he would enjoy the newly increased emolument, that purpose would be fully satisfied. He argued that, "if the increase is made . . . and then unmade, he cannot get, or hope for, anything more than if there had been no such increase." 43 Cong. Rec. 2403. This reasoning prevailed. After passage of the remedial legislation, Senator Knox was nominated and confirmed as Secretary of State.

Finally, the precedent established by the appointment of Senator Hugo Black to the Supreme Court is worthy of some consideration. During Senator Black's term of office, Congress strengthened the retirement benefit of Supreme Court Justices. During that same term, the Senator was nominated to the Court. At the time, there was considerable discussion whether that increase in retirement benefits constituted an increase in the emoluments of that office within the scope of the Ineligibility Clause. The Senate confirmed the nomination, apparently agreeing with the Attorney General that Senator Black was nevertheless eligible because the purpose of the Clause was served since "inasmuch as Mr. Black was only fifty-one years old at the time and so would be ineligible for the 'increased emolument' for nineteen years, it was not *as to him* an increased emolument." See Corwin, Annotated Constitution at 133, N.Y. Times, Aug. 14, 1937, p. 1, col. 3.

These precedents support an interpretation of the Ineligibility Clause, which, consistent with the intention of the framers, permits a Member of Congress who dos not receive any prohibited benefits to accept an office in the United States.

IV

Arguments may be advanced in favor of a strict or literal construction of the Ineligibility Clause which would bar Senator Saxbe's appointment. Thus, for example, it could be argued that if the Founding Fathers had intended that the Clause be avoided by eliminating a salary increase or other emolument enacted during a member of Congress' term of office, they would have specifically so provided. The difficulty with such an argument is that it assumes that the Constitution was written in the same manner as a detailed statute. Moreover, it leads to a result inconsistent with the dual results of the Ineligibility Clause as set forth in the previous sections (to prevent corruption in the appointment process without unduly restricting the availability of members of Congress for other posiitons in the public service).

It is true that the Supreme Court has on occasion extolled the virtues of strict interpretation of constitutional provision. In *Lake County* v. *Rollins*, 130 U.S. 662 (1889), a diversity action involving no question of federal law, the Court had occasion to interpret a detailed debt limit provision in a state constitution. The Court stressed the need to construe unambiguous provisions within the bounds of the document. However, the Court prefaced its words on construction by stressing the all important role of the intent or purpose of a constitutional provision: "The object of construction, applied to a constitution, is to give effect to the intent of its framers, and of the people in adopting it." 130 U.S. at 670.

Chief Justice John Marshall was well aware that many federal constitutional provisions do not spell out contingencies in great detail, requiring that a court deduce or infer a great deal from the general object of the provisions. In McCulloch v. Maryland, 17 U.S. 316, 406 (1819), Marshall wrote:

A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would, probably, never be understood by the public. Its nature, therefore, requires, that only its great outlines should be marked, its important objects designated, and the minor ingredients which

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[1] In discussing the Ineligibility Clause during debate in the Virginia Convention, Madison noted:

"It is impolitic to exclude from the service of his country, in any office, the man who may be most capable of discharging its duties, when they are most wanting." Farrand, Vol. III, p. 315.

Mr. Wilson also noted during the Constitutional Convention that the Constitution ought to hold forth "every honorable inducement for men of abilities" to enter the public service. Ferrand, Vol. I, pp. 379–380.

compose those objects be deduced, from the nature of the objects themselves . . . [W]e must never forget that it is a constitution we are expounding. *McCulloch* v. *Maryland*, 17 U.S. 316, 406 (1819).[2]

The Chief Justice went on to state that a strict literal interpretation of the Constitution would lead to such pernicious results that the Supreme Court would be compelled to disregard such an approach. 17 U.S. at 415. The same thought was expressed in the *Legal Tender Cases*, 12 Wall. 457, 531 (1871), where the Supreme Court stated:

"Nor can it be questioned that when investigating the nature and extent of the powers conferred by the Constitution upon Congress, it is indispensable to keep in view the objects for which those powers were granted. This is a universal rule of construction, applied alike to statutes, wills, contracts, and constitutions. If the general purpose of the instrument is ascertained, the language of its provisions must be construed with reference to that purpose and so as to subserve it. In no other way can the intent of the framers of the instrument be discovered."

The decisions of the Supreme Court contain numerous examples of interpretations of constitutional provisions which go beyond the literal implication of the language in order to reach a result consistent with the intent of the framers. Recently in *Walz* v. *Tax Commission*, 397 U.S. 664 (1970), the Court was confronted with an argument based on the Establishment Clause of the First Amendment ["Congress shall make no law respecting an establishment of religion. . . ."] It was argued that the clause, read literally, barred a municipal grant of an exemption to church property.

In rejecting this contention, and upholding the church tax exemption, the Court stressed the purpose rather than the literal meaning of the language: "The sweep of the absolute prohibitions in the Religion Clauses may have been calculated; but the *purpose was to state an objective, not to write a statute*." 397 U.S. at 668. (Emphasis added.)

The Fifth Amendment contains several clauses which have been subject to extensive interpretation by the courts. The final clause of that Amendment provides that "private property . . . [shall not] be taken for public use without just compensation." The literal language of this clause does not put the reader on notice of the many nuances which have been read into the language by court decisions. Thus, under existing case law the damage caused by aircraft flying at a low level directly over private property constitutes "taking" [*Griggs* v. *Allegheny County*, 369 U.S. 84 (1962); *United States* v. *Causby*, 328 U.S. 256 (1956)], but a low level flight causing similar damage to property not directly under the flight path is not a "taking" [*Batten* v. *United States*, 306 F.2d 580 (10th Cit. 1962), *cert. denied*, 371 U.S. 955 (1963)]. And, under the threat of imminent invasion by foreign troops, the ourtright destruction of an oil refinery by United States forces does not constitute a "talking." [*United States* v. *Caltex*, 344 U.S. 919 (1952).]

Perhaps an even more striking example of a non-literal approach to a constitutional provision is the so-called self-incrimination clause of the Fifth Amendment. It reads:

No person . . . shall be compelled in any criminal case to be a witness against himself. . . .

Read literally the clause would apply only to a "criminal case," and not to questions of compulsory self-incrimination arising in civil cases, in administrative proceedings, in congressional investigations. And yet the Supreme Court consistently has interpreted the clause to apply to all federal official proceedings, [*Hoffman* v. *United States*, 341 U.S. 479 (1951)], and to official state proceedings too via the process of incorporation into the due process of law clause of the Fourteenth Amendment. [*Malloy* v. *Hogan*, 378 U.S. 1 (1964)].

Even more significant, by looking at the purpose and the function of the clause, the Supreme Court has validated what are known as immunity statutes (or compulsory testimony laws) in a consistent line of interpretation beginning with *Brown* v. *Walker*, 161 U.S. 591 (1896) and reiterated as recently as 1972 in *Kastigar* v. *United States*, 406 U.S. 441 (1972).

What is the function and effect of this Fifth Amendment clause, standing alone? It is to bar the government from obtaining testimony and personal documents from a witness when the witness interposes a proper plea of the Fifth Amendment. And indeed, in keeping with a functional approach to this clause, the Court has aided the witness and broadened the protection by developing the doctrine that a mere showing of a tendency to incrimination is sufficient to protect the witness from compulsion to produce the desired information. [*Hoffman* v. *United States*, 341 U.S. 479 (1951)].

How, it may be asked, can an immunity statute make it possible to compel the witness to produce the information desired by the government? This effect is made consistent with the constitutional protection by providing, in the immunity statute, that no compelled information or any derivative fruits thereof can be used against the witness in any proceeding which could subject him to a criminal penalty; it cannot furnish any basis for a conviction. It is only looking at the Fifth Amendment clause in broad, functional context that this effect of an immunity statute can be said to be consistent with the clause.

The immunity statutes upheld by the Court provide a close parallel to S. 2673 in that, while both might be said to permit action not in literal compliance with the constitutional provisions involved, it is evident that the purposes of those provisions are fully satisfied by such action. Moreover, both the immunity statutes and legislative provisions in the nature of S. 2673 have a long history, further strengthening the presumption of constitutionality.

▼

It is our conclusion that an interpretation of the Ineligibility Clause which permits the nomination and appointment of Senator Saxbe following the enactment of S. 2673 is consistent with, indeed, required by, the relevant principles of constitutional interpretation. Any other result would, in our view, conflict with the clear purposes of the Founding Fathers in including this provision in the Constitution. Consequently, I urge the early consideration of S. 2673 by this Committee and prompt enactment by the Senate in order to facilitate consideration of Senator Saxbe.

[2] In accord with Chief Justice Marshall's purposive approach to interpreting the Constitution, the Supreme Court only two years after *McCulloch* held that Congress had the constitutional power, notwithstanding the lack of any express provision in this respect, summarily to punish by contempt persons disobedient to lawful Congressional commands. *Anderson* v. *Dunn*, 19 U.S. 204 (1821). A wholly literal approach to interpreting the Constitution would have led to the opposite conclusion.

COMMUNITY LEVEL ENERGY CONSERVATION PROGRAMS CAN WORK—THE ST. CLOUD, MINN., MODEL

Mr. HUMPHREY. Mr. President, we have heard a great deal of talk in the last few months about the need to conserve energy. We are all rapidly becoming experts in the statistics of scarcity and waste and with the gallons that can be saved by taking any one of a wide range of energy conservation suggestions.

Yet most observers agree that little progress has actually occurred, nationwide, in significantly reducing energy consumption. Perhaps we have not succeeded because we have not promoted local, community-based programs to the extent necessary.

Today, the Consumer Economics Subcommittee heard Mr. William J. Ball, of the St. Cloud, Minn., energy commission, describe his communities energy conservation program. I asked Mr. Ball to talk with us because I have seen the St. Cloud program and am extremely impressed with it. I compliment the mayor, the city council, the chamber of commerce, and others.

I am convinced that it can be a model for communities throughout the Nation. I suggest that the Office of Energy Conservation in the Department of the Interior would be well advised to use the St. Cloud program as a working example of local government fuel conservation.

I compliment the people of St. Cloud for their creative leadership and ask unanimous consent that Mr. Ball's statement be printed in its entirety in the RECORD.

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

ST. CLOUD, MINN., ENERGY CONSERVATION PROGRAMS

(By William J. Ball, Chairman, Public Awareness Committee, St. Cloud Energy Commission, Nov. 19, 1973)

The St. Cloud energy situation became a matter of vital concern in December 1972 when St. Cloud heating oil reserves reached a dangerously low level. An area wide crisis was averted only because of unusually mild temperatures during January and February. Fuel problems arose again in May 1973 when the St. Cloud Airport was threatened with the cutoff of their aviation gas when a major fuel supplier withdrew from the St. Cloud area. As the result of these two events, St. Cloud Mayor Alcuin G. Loehr organized an energy study commission in May 1973 to assess the fuel and energy situation in the St. Cloud area. Gordon Haglund, President of Consolidated Oil Company, a major St. Cloud fuel distributor, was named chairman of the group which soon became the St. Cloud Energy Commission. Mr. Haglund along with other members of the community including energy suppliers, large industrial energy users, the St. Cloud Defense Department and St. Cloud area citizens together outlined a program to identify the St. Cloud energy situation and to inform residents of the St. Cloud and national outlook.

As a member of the Energy Commission representing a large industrial user, I was named to head a Public Awareness Committee whose objectives were identified as follows:

1. To create an awareness of the local and national energy situation.

2. To gain support for current and proposed energy conservation programs.

3. To encourage participation by St. Cloud area businesses and residents in energy conservation programs.

4. To prepare citizens of the St. Cloud area for possible mandatory conservation or allocation programs in the future.

In order to accomplish these objectives, the Public Awareness Committee was divided into three subcommittees, each with a specific

assignment relating to overall objectives. A Public Relations Subcommittee was established with responsibility for transmitting energy related information to the public through the news media. A second subcommittee was established as a speakers bureau to provide both qualified speakers and source information for direct communication to the St. Cloud community through school groups, business meetings, service clubs, churches, and other citizen groups. The third Public Awareness Subcommittee was assigned the responsibility for planning and implementing an Energy Week promotion to focus public attention on the energy situation and to encourage community wide participation in energy conservation programs.

It was decided that a Fall date would provide the right setting for Energy Week. During late October and early November, Minnesota residents begin to prepare for a long winter that normally includes 2 or 3 weeks of sub-zero temperatures. And, since a late October chill in the air can usually be relied on to provide a preview of Winter, it was decided that this would be the best time for Energy Week. Residents would be thinking about heating their homes and would be much more receptive to conservation programs at a time when the threat and problems of a fuel shortage could easily be seen. Therefore, Energy Week was proclaimed by the Mayor of St. Cloud for the week of October 29th through November 2, 1973.

Preparations for Energy Week included a comprehensive program to involve all aspects of the St. Cloud community in Energy Week activities. Literally every sector of the community was involved in energy programs either through the publicity given Energy Week activities or through their own direct participation. The Energy Week Subcommittee was expanded to include members of the St. Cloud School Systems, local merchants, local manufacturers and processors, local churches, the news media, energy suppliers, service clubs and individual citizens.

It was decided very early in the planning stage that Energy Week needed a focal point in order to center public attention on a key event related to the energy situation. Because of his active leadership in energy conservation programs, Senator Hubert Humphrey was invited to address an Energy Luncheon for business and civic leaders of the St. Cloud community. Other speakers invited to participate in the Energy Luncheon program included St. Cloud Mayor Alcuin G. Loehr, St. Cloud Energy Commission, Chairman, Gordon Haglund, and Minnesota Civil Defense Director, James Erchul.

At this point, I would like to introduce another celebrity. This is "Little Quintus", a citizen of St. Cloud who symbolizes our interest in the wise use of energy. Quintus was created by the St. Cloud Energy Week Committee to serve as a visual reminder of energy conservation programs throughout the community. The name given our friend and the Roman numeral 5 on his shield reminds St. Cloud citizens to turn their thermostats down 5 degrees. To emphasize that point, a thermometer replaces the more traditional sword in his right hand. Our friend Quintus became our mascot, our leader and our energy ambassador by providing a central theme and symbol to be used in all Energy Week advertising and promotional programs.

These Energy Week programs included a variety of activities planned to emphasize energy conservation throughout the community. Examples include:

"Little Quintus" energy reminder stickers were distributed to area businesses including merchants for their use as bag stuffers.

Manufacturing plants held employee meetings to emphasize energy conservation measures within their operations and in the homes of employees.

Free bus service on two days of Energy Week was arranged with the Metropolitan Transit Commission to encourage the use of public transportation rather than private automobiles.

An energy conservation poster contest was conducted in St. Cloud area schools with prizes for the most original presentation of energy conservation ideas.

Area merchants promoted Energy week through advertising and special sales on energy conserving products such as sweaters and furnace filters.

The local news media provided extensive publicity describing Energy Week activities including both news reports and the presentation of energy conservation tips.

A city wide energy saving contest was conducted with prizes for the best energy conservation suggestions.

Energy Commission members appeared on local radio stations and television programs to discuss Energy Week and other energy topics.

In total, energy conservation became a known and popular subject throughout the community. The major energy speech given by Senator Humphrey at the Energy Luncheon indicated the importance of St. Cloud Energy Week activities. The extensive press coverage provided by the local and regional press indicated acute interest on the part of area citizens and provided them with further information on the energy situation. In total, interest and cooperation on the part of every segment of the community proved the timeliness of this program and the interest and support provided by an informed public.

A more concrete indication of the success of St. Cloud Energy Week can be seen in the follow-up and continuing programs undertaken throughout the community. I would like to give you a few examples of these independent actions taken voluntarily on the part of members of our community:

Merchants associations throughout the St. Cloud area have proposed plans for drastically reducing or eliminating Christmas lighting displays. Merchants have also turned out advertising signs and cut down on the use of display lights. They have reduced their thermostats to 68° and are now considering a reduction in store hours during the coldest winter months to conserve on fuel and electricity.

The St. Cloud Area Chamber of Commerce assumed a major role in continuing energy conservation programs by organizing task forces for all Chamber divisions. These groups will visit and provide energy advice to all area businesses to insure that St. Cloud fuel shortages have a minimum effect on the local economy.

Many St. Cloud manufacturers and processers have taken independent decisive actions to conserve energy. Holes-Webway Company, a manufacturer of photo albums, has adopted a four day work week by eliminating Friday operations through the winter.

Our company, DeZURIK, a manufacturer of industrial valves and related process control equipment, has adopted a number of energy conservation programs including a night blackout of all except emergency lighting and a reduction in temperatures throughout the building. We are also actively seeking a means of using heat generated in the foundry to heat our building. During Energy Week, we conducted an energy contest with prizes for the best employee suggestions for conserving energy. Those suggestions relating to plant operations are currently being studied by our Engineering Department.

St. Regis Paper Company in Sartell, Minnesota is emphasizing the conservation of plant services including steam, compressed air, electricity and water.

The most important contribution of Turbodyne, a manufacturer of gas turbines for electrical generating plants, is an around the clock work schedule in order to meet utility plant construction requirements.

The City of St. Cloud has reduced electricity consumption by cutting out unnecessary lights and lowering the wattage of bulbs in halls and other non-critical areas. The police department has been instructed not to leave patrol cars idling unnecessarily and the fire department is keeping its main doors closed. Studies have been undertaken to inpect all public buildings and assure the efficiency of insulation and heating systems.

Churches throughout the community have emphasized energy conservation through programs in their own buildings. More important, however, the local Ministerial Association has gotten together to encourage members to preach energy conservation sermons emphasizing both the social and moral requirements to use this natural resource wisely.

St. Cloud area schools are incorporating a variety of energy conservation programs including reductions in lighting and of building temperatures. The Sauk Rapids, Minnesota School System has taken measures to control the cold air intake on furnaces.

Since all schools have interruptable fuel contracts, schools throughout the St. Cloud area have made plans to schedule make-up school days during warmer spring months in the event of closure due to fuel shortages.

Perhaps most important of all conservation programs are the actions taken by individual citizens to conserve energy in their homes and in their private automobiles. At present the St. Cloud Energy Commission Public Awareness Committee is outlining a program to study the effect of Energy Week and the degree of participation by individual citizens in energy conservation programs. It is apparent, however, that many of these measures have been put into practice already. A reduction in highway speed around the St. Cloud area can readily be seen. Many individual citizens have reported on energy conservation measures in their homes including turning down of their thermostats, the checking and improvement of insulation in their homes and a conscious effort to cut out unnecessary lights. The St. Cloud Jaycees' annual Christmas home decorating contest this year will give prizes not for lighting but for displays which do not use energy.

Members of the St. Cloud Energy Commission feel that Energy Week was a major success in the St. Cloud area. Cooperation with Energy Week activities indicated the acceptance of Energy Commission programs by all segments of the community. More importantly, voluntary actions taken by individual citizens and businesses have demonstrated the success of public awareness programs which brought the facts of the energy crisis to citizens of St. Cloud, Minnesota in a believeable and meaningful way.

Most important of all however, are the follow-on programs now underway in both the public and private sectors of the community "Energy Week" by itself would mean nothing if it did not result in concrete actions by public officials, business groups, school officials and individual citizens. The task force approach is designed to achieve positive and unified action throughout all segments of the community. We believe that these local programs combined with leadership initiatives at the state and national level can result in an energy conservation plan which will have the backing of the people of this nation. And if the people are behind it, the plan cannot help but succeed.

SENATOR RANDOLPH REEMPHASIZES CRITICAL COAL MINING SUPPLY PROBLEM IN TIME OF ENERGY NEED

Mr. RANDOLPH. Mr. President, 40 days ago I introduced an amendment to

the Surface Mining Reclamation Act of 1973, which passed the Senate. This amendment urged the Department of the Interior, the Cost of Living Council, the Office of Preparedness, and the Office of Energy Policy to take immediate action to increase the supply of steel available for the manufacture of coal mine roof bolts and roof plates essential to maintaining the safe operation of coal mines. The amendment expressed the sense of Congress that if necessary, increases in the price of mine roof bolt stock should be granted to a level which would insure the manufacture of sufficient supplies of roof bolts and roof plates, needed to support and secure the walls and ceilings in underground mines.

Since that time the Interior Department's Mining Enforcement and Safety Administration has informed me that at least 11 coal mines have been temporarily closed due to a lack of roof bolts and plates. By temporarily closed I mean that production shifts or production days were missed. These mines range from 6 men and 150 tons of coal per shift to 106 men and 1,000 tons of coal per shift. These 11 mines total 189 men and 2,865 tons of coal per shift—every 8 hours.

Friday, for the first time in over 5 weeks, I was optimistic over possible action within the Cost of Living Council to relieve the severe scarcity of mine roof bolts. The Cost of Living Council advised me that a request for reasonable price increases will be handled expeditiously.

As an example of the need for action by the Cost of Living Council, Steel Service Co. in Nashville, Tenn., which owns Knoxville Iron Works in Knoxville, a rod producer, informs me that if a requested price increase is granted, the company would increase production by 2,000 tons of steel rods a month, an increase of 24,000 tons of steel rods a year, accounting for about 12 percent of the U.S. market. This would amount to almost 75 percent of the total rods needed by Birmingham Bolt Co. for roof bolt production. Birmingham Bolt provides roof bolts to coal mining operations in Pennsylvania, West Virginia, Virginia, Kentucky, Illinois, Tennessee, and Colorado. This is by no means a solution to the complete problem, but it could save many coal mines from discontinuing mining operations. Birmingham Bolt manufactures 25 percent of the roof bolts in this country. Since the market for mine roof bolt stock has been about 300,000 tons a year, an increase in production of 24,000 tons should help alleviate some of the shortage.

Additionally, one major steel company has submitted a price exception to the Cost of Living Council for its roof bolt product. This company manufactures the steel rods and the roof bolt. It is my understanding that as soon as sufficient information has been submitted to the Council, a quick decision will be forthcoming.

Mr. President, Mining Enforcement and Safety Administration and the Department of Commerce's Capital Equipment Division worked closely with my staff in the submission of a report on November 9 to the Cost of Living Council by the Department of the Interior in behalf of those companies producing or capable of producing steel bar stock or other components meeting specifications commonly used in the production of mine roof bolts. This report is to assist the Cost of Living Council in the expeditious processing of urgent requests for price relief.

Mr. President, I am gratified that based upon my recommendation, the Interior Committee included in S. 2589, the pending measure, a provision authorizing the President to take such action as may be necessary to allocate necessary supplies of materials to maintain and increase the production of coal. In section 303 the Director of the Cost of Living Council is authorized to study and recommend to the Congress specific incentives to increase the energy supply. These are vital parts of the legislation and, if enacted into law, will be effective in assuring supplies of roof bolts.

This Nation will soon be engaged in converting facilities to coal and in more efficient uses of fuel production. Yet the industry which must produce the coal cannot secure an adequate supply of mine roof bolts—usually a 90-cent item—which accounts for less than 1 percent of this country's total steel production. By 1985 our country's coal production must increase by about 2.85 its present production—1.3 billion tons of coal. It is estimated that within 2 years, roof bolt consumption in coal mining alone will increase over 15 percent.

As I indicated, Mr. President, the Cost of Living Council advised me that top priority will be given to individual producers of the mine roof bolt stock—the steel rods needed for the roof bolt manufacturing—that submit reasonable price requests to the Council. It is my genuine hope that the Council will follow through on this vital matter.

Mr. President, I ask unanimous consent that the following materials be printed in the RECORD: My letter of September 26 to the President and his domestic adviser's response and also a reply from John Love of Office of Energy Policy; a letter to the Director of the Cost of Living Council from the Acting Secretary of the Interior and Mr. Dunlop's response; my letter to Mr. Dunlop and his response; a press release by the Mining Enforcement and Safety Administration mentioning no relaxation of mining regulations; a news article about this shortage; excerpts from the Interior Department's submission to the Cost of Living Council; and selected communications from coal suppliers and users.

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

SEPTEMBER 26, 1973.

THE PRESIDENT,
The White House.

DEAR MR. PRESIDENT: I have been informed by reliable sources in the coal industry—and the information has been confirmed by the Bureau of Mines, Department of the Interior—that a critical shortage of coal mine roof bolts and roof bolt plates is developing with rapidity. This creates a dangerous condition in that it involves possible unsafe working conditions for men in underground mines; and it means that more and more coal mines will have to cease production.

Cessation of production of coal in underground mines at this time and immediately ahead, when heating oil shortages are additional threats, would further complicate already serious energy supply deficiencies. And the steel industry would itself be jeopardized by lack of vital metallurgical coal.

This condition, if permitted to grow in seriousness, could virtually destroy much underground coal mining, would hamper steel producing, and would obviate much of the electricity generating in our country. Without adequate supplies of roof bolts and plates adequate maintenance, as well as operations, would be impossible. Millions of dollars of capital investments in coal mines would be in jeopardy.

Mr. President, I urge that you have the conditions to which I refer checked into with care and dispatch by the appropriate departments and agencies of the Executive Branch. And I urge further that you especially have your energy and Office of Emergency Preparedness people work with the coal and steel industries and the Bureau of Mines to effectuate alleviation of the coal mine roof bolt and plate shortages in order to help restore normal and, where possible, accelerated coal production. Corrective actions should be taken with promptness.

I assure you that if new legislation is needed, and if the area of deficiency in the statute is delineated, I will work aggressively for the legislation that would provide the authority for the Executive Branch to use where, when, and however needed.

Truly,

JENNINGS RANDOLPH,
U.S. Senator.

THE WHITE HOUSE,
Washington, October 16, 1973.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: Thank you for your timely letter of September 26 concerning the shortage of mine roof bolts and mine roof bolt plates. We agree that a shortage of the bolts and plates could aggravate the energy situation this winter and seriously hamper mine safety programs.

At this time I would like to assure you that members of the Executive Branch, particularly those in the Departments of Commerce and the Interior have been apprised of the potential seriousness of the problem.

Since late last week members of both these Departments have been gathering information on the situation. Initially, it appears that there is a shortage of suitable steels to be used in fabricating the bolts and plates. Appropriate agencies are trying to find alternate sources of supply at this time. These corrective efforts have been made difficult because of an overall tight supply situation in steel.

As soon as the appropriate agencies are able to provide us with a siuation report we will advise your office of its content.

Sincerely,

KENNETH R. COLE, Jr.,
Director, Domestic Council.

THE WHITE HOUSE,
Washington, October 9, 1973.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Committee on Public Works,
Washington, D.C.

DEAR SENATOR RANDOLPH: Thank you for the copy of your letter to President Nixon.

You may be sure that this information will become an integral part of the evaluation process as we seek best possible answers to our energy problems.

Sincerely,

JOHN A. LOVE,
Assistant to the President.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 12, 1973.

Hon. JOHN T. DUNLOP,
Director, Cost of Living Council,
Washington, D.C.

DEAR MR. DUNLOP: A recent departmental survey led by the Mining Enforcement and Safety Administration (MESA) discloses that there is a continuing and worsening shortage of roof bolts. The survey indicates that roof bolt production could fall 30 percent by January 1, 1974. As a result of this shortage, we have been receiving an unprecedented number of requests to modify or relax MESA approved roof control plans.

Despite a significant reduction in the number of roof fall fatalities in the last two years, roof falls continue to be a leading cause of death in underground coal mines. Hence, we cannot relax our roof bolting requirements because of a shortage. Ancillary to the health and safety factor, the lack of roof bolts could very well cause a number of coal mines to shut down, further aggravating the energy crisis.

Our information indicates that this shortage stems basically from a shortage of the suitable steel stocks (9/16" bar and ¼" x 6" plate) used in fabricating these products, which in turn is related to overall industry pricing and production capacity problems.

We have been advised that the Cost of Living Council is considering permitting upward price adjustments for those industries operating at or near capacity. Further, several major producers have indicated that some price relief would have a salutary effect, and they intend to file for appropriate relief.

If the Council corroborates our findings, we urge that it take all steps necessary to expedite the processing and granting of such price relief requests related to the roof bolt shortages.

Sincerely yours,

JOHN C. WHITAKER,
Acting Secretary of the Interior.

COST OF LIVING COUNCIL,
Washington, D.C., October 25, 1973.

Hon. JOHN WHITAKER,
Acting Secretary of Interior,
U.S. Department of the Interior,
Washington, D.C.

DEAR MR. WHITAKER: Thank you for your letter of October 12 regarding the shortage of roof bolts in the coal mining industry. We are pleased to have such situations brought to our attention.

As you know, a number of materials and specific products have been in increasingly short supply in recent months. The strong gain in output that took place in late 1972 and early 1973 moved many industries close to full utilization of capacity. Steel was, of course, one of these. Current production problems in the steel industry mean that in many instances delivery dates have been stretched out, and some products have sometimes been unavailable in quantity at the time they are needed.

Granting additional price relief at this time would not automatically or necessarily generate an increase in the supply of particular steel products. Prior to this summer's price freeze, steel producers could increase prices without prenotification to the Cost of Living Council, and prices of various products were increased. The wholesale price index for various categories of steel bar and plate rose by 3 to 10 percent between December 1972 and June 1973.

As you undoubtedly know, a price increase for flat-rolled steel products went into effect early this month, and a further increase will be effective next January 1. Increases in prices of other steel products were not requested by most steel companies at that time and the Council decided that permitting increased prices for flat-rolled steel products of the magnitude requested would have an impact on the economy of such a magnitude as to be inconsistent with the goals of the Program. Beginning December 1, however, firms can prenotify price increases on other steel products. If the lack of availability of roof bolts is a consequence of a cost squeeze in this product line, firms in the steel industry may be able to support price increases, and these products may then be more readily available. Discussions between my staff and some firms in the industry indicate that exception requests are being filed in those cases where there is insufficient cost justification. Once these exception requests are received we will proceed to review them expeditiously and take appropriate action.

The problem of roof bolt availability is one aspect of the general problem of insufficient production capacity to fill recent high demands on steel and other basic materials producing industries. A prospective reduction in the pace of demand along with some possible price relief for particular products should help to alleviate these supply shortages.

Sincerely,

JOHN T. DUNLOP,
Director.

OCTOBER 29, 1973.

Hon. JOHN T. DUNLOP,
Director, Cost of Living Council, Washington, D.C.

DEAR MR. DUNLOP: The serious shortage of coal mine roof bolts and plates continues to impact the operations of our nation's coal mines. I understand that the Department of Interior, the Office of Energy Policy, and several steel firms have contacted the Cost of Living Council concerning adjustments in pricing for these products. Some coal mines in West Virginia are operating on a day to day search for these roofing materials which are essential to the health and safety conditions within a mine.

Enclosed is a copy of my remarks in the Senate on an amendment, passed unanimously, to the recent Surface Mining legislation stressing the urgency of this situation. Also enclosed is a copy of my letter to the President urging him to have the appropriate departments and agencies take corrective actions.

I urge your full cooperation in the efforts to secure an adequate supply of steel roof bolts and plates. If this affirmative action is not taken to alleviate this critical shortage, there undoubtedly will be a worsening of this winter's energy shortage but also the health and safety of our country's underground coal miners will be jeopardized.

Your prompt and careful consideration of this vital matter will be appreciated.

With sincere thanks and with best wishes, I am

Truly,

JENNINGS RANDOLPH.

COST OF LIVING COUNCIL,
Washington, D.C., November 14, 1973.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: Thank you for your letter of October 29th on behalf of the mining industry regarding the shortage of roof bolts and plates.

The Cost of Living Council is aware of the serious nature of the roof bolt problem. We are currently engaged in an in-depth study of this situation, and discussions with the various manufacturers of this product. Since roof bolts and plates have historically been low profit items, steel companies have tended to concentrate production on other, higher profit, products.

Our regulations provide that firms may increase prices based upon increased costs as long as profit margins are not exceeded as a result of the increased prices. Firms with annual revenues of over $100 million must prenotify to the Council before increasing prices, even if they are based upon allowable costs.

Bethlehem Steel Company has requested an exception to the regulations to raise the prices on its roof bolts and accessories. We have requested clarification of certain facts from the firm, and will process this case as soon as the requested information is received.

Thank you for your expression of concern with this issue. We will certainly notify you of any further developments in this area.

Sincerely,

JOHN T. DUNLOP,
Director.

[News release from the Department of the Interior, Oct. 15, 1973]

MESA ADMINISTRATOR ORDERS "STRICT ENFORCEMENT" OF SAFETY REGULATIONS IN CITING ROOF BOLT SHORTAGE

Mining Enforcement and Safety Administrator James M. Day has notified Federal mine inspectors, coal mine operators and labor unions that despite a reported critical shortage of roof bolts, used to support mine roofs, there will be no relaxation of strict enforcement of approved roof control plans or standards, the Interior Department announced today.

Day's memorandum to all MESA inspection personnel—in both coal mines and in metal and nonmetallic mines—advised them of the shortage, and instructed them directly:

"It is important that mine inspection personnel pay particular attention to operator compliance with approved roof control plans and maintain strict enforcement. Operator roof control procedures that include dependence on roof bolts must be closely inspected to insure that safety is not being sacrificed as a result of this shortage."

In letters to Arnold Miller, President, United Mine Workers of America, and to I. W. Abel, President, United Steelworkers of America, Administrator Day asked for the leaders' assistance in "putting the power of the unions to work to call on the steel industry to make necessary materials available."

The new MESA Administrator corresponded with many of the major coal mine operators asking for their cooperation "in helping to maintain a high level of safety throughout the shortage."

Other action taken by MESA included opening lines of communication with all manufacturing parties to find out what steps can be taken to ameliorate the roof bolt shortage situation. Day stated that the Secretary of the Interior, Rogers C. B. Morton has requested the Cost of Living Council to react favorably to any requests from roof bolt manufacturers or steel suppliers to price adjustments or relief.

A letter to that effect was delivered October 12 to the CLC, signed by Acting Secretary John C. Whitaker.

[From Metalworking News, Oct. 16, 1973]

MINE ROOF BOLT BUSINESS MAY YIELD TO STEEL CRISIS

(By Debra Patton)

NEW YORK.—A shortage of steel is threatening to close down producers of mine roof bolts and cause a 25 to 40 percent drop in underground mine production.

"The supply situation is extremely critical." James Earl, production manager of H. K. Porter Co., Inc., Huntington, W. Va., said Friday. "If we don't receive a supply of rod stock in ten days, we'll have to close the plant."

Earl said his plant is already "operating at well below 50 percent capacity."

He added that the steel used for making the bolts is just not available. "We are ac-

tively spending a lot of time looking for steel," he said.

Earl said his company has not yet used imported steel. "As an American company, the thought of imports is distasteful."

Claude White, president of Birmingham Bolt Co., Birmingham, Ala., said the steel shortage is "very bad." Birmingham, which is the largest American producer of mine roof bolts, has two of its plants temporarily out of production. "We are picking over the scrap piles, but by the end of the next week our production will pick up again," White said.

White said the steel shortage at his plant was caused by the fact that one of his suppliers is on strike and said there were delays in deliveries from other mills.

"For the fourth quarter we are short several-thousand-tons of steel," he said. The company uses 5,000 tons of steel a month to produce over 2-million roof bolts.

White said several mills furnishing steel rods have quit rolling metal for bolts "because they can sell it for more profit as sheets, structurals and so on."

White said his company has not bought foreign steel yet. "We were offered some earlier at a price which I thought was fantastically high. Now that price looks pretty good," he said.

"We're going to see dozens of mines being shut down or hamstrung (because of the bolt shortage) that will cost millions of dollars," he said.

Harmony Industries, Inc., Mingo Junction, Ohio, is another large manufacturer of mine roof bolts. Ross Seese, president, said his company is experiencing a two-thirds drop in production because of the steel shortage.

He said mills are making more money from billet formed steel and other products. "The mills are slowly cutting back on the quantity they are shipping," he said.

His company, which makes other mining products also, used to get 2,500 tons of steel a month. Now they receive only 850 tons a month, he said.

William A. Keller, general superintendent of Pattin Manufacturing Co., Marietta, Ohio, a division of Eastern Co., said his company's steel inventory is in good shape, "but it won't last. The steel mills are not rolling rods used to manufacture bolts because it's not profitable," Keller said.

Keller said he could see the steel shortage coming. "Lead-time had stretched out and the mills began to cut back on the amount of tonnage you could buy," he said.

A spokesman for Consolidation Coal, Pittsburgh, the second largest American producer of coal, said his company is currently not seeing any effects of the mine roof bolt shortage. "But in a few days the shortage will affect the industry drastically," he said.

The bolt shortage has "slipped up on the coal industry," he said. Consolidation has a vast inventory of the bolts, but is facing problems getting "the right bolts to the right location at the right time," he said.

Trying to get imported bolts is also a problem, the spokesman said. There is a lead-time of six months in Japan and three months in Canada, he said.

The shortage will "create severe hazards because the men can't work on mines without proper roof support," he said.

A spokesman for Peabody Coal, the largest domestic coal producer, said, "We've been getting enough bolts to operate. But if we don't get a continuation of delivery the problem will be serious."

A government spokesman from the Federal Mining Enforcement & Safety Administration, Washington, estimated that if the steel shortage continues, a 25 percent to 40 percent drop in underground mine production will result by the end of the quarter.

Had mine roof bolt production remained at its former level, about 90-million bolts a year would be produced, he said.

"The shortage is creating a dangerous condition," he commented. "The mines can't go below minimum supportive standards. Some mines are beginning to cut back to minimum standards already," he said. "Roof falls are the number one cause of death in underground mines."

Senator Jennings Randolph of West Virginia is also concerned about the mine roof bolt shortage. Last week he tacked on a resolution to the surface Mining Reclamation measure of 1973 (S. 425) which called for immediate action to end the shortage.

In part it said: "It is the sense of the Congress that the Department of the Interior, the Cost of Living Council, the Office of Preparedness and the Office of Energy Policy shall take immediate action to increase the supply of fabricated steel available for the manufacture of coal mine roof bolts and roof plates essential to maintaining the operations of coal mines at the level necessary to provide adequate supplies of coal in the immediate future. If necessary, such action shall include granting increases in the price of fabricated steel to a level which will insure the manufacture of sufficient supplies of roof bolts and roof plates."

The bill passed unanimously by voice vote and now must go before the House.

An aide for Senator Randolph said the Senator will be meeting with government officials this week in order to try to get prompt action.

SUBMISSION OF THE INTERIOR DEPARTMENT TO THE COST OF LIVING COUNCIL

This submission is made pursuant to 6 CFR 155.41 (et seq.) by the U.S. Department of the Interior in behalf of those companies producing or currently capable of producing steel bar stock or other components meeting those specifications set forth in 30 CFR 75.200–7(a)(1) (by reference) commonly used in the production of mine roof bolts in order to assist the cost of living counsel in the expeditious processing of such requests for relief as are described below:

SUMMARY

As more fully set forth below, this submission shall set forth; (1) that an already critical and worsening shortage of roof bolts currently exists; (2) that such bolts are necessary and indispensible materials used in the mining industry; (3) that the availability of such bolts has a direct impact on both the safety of miners employed at underground mines and the ability of the Nation to meet its short and long term energy needs; (4) that both of these areas of impact fall within the purview of the statutory responsibilities of the Department of the Interior, and (5) that the granting of the requested relief is the most expeditious method of alleviating the shortage and thence safeguarding overall national interests.

STATEMENT

Recent surveys done by the Mining Enforcement and Safety Administration (MESA) have disclosed that there is a worsening shortage of mine roof bolts. Based on a survey of major bolt fabricators, it is projected that a production drop off of between 25% and 40% could occur by the end of this year. (See Exhibits 1 and 2) This fact alone may not be alarming to those unfamiliar with mining technology. The plain fact is, however, that roof bolts now constitute the sole means of roof support in developing areas of most of the Nation's underground coal mines and an integral part of the roof support system of almost all the rest. Since the early post World War II period, the majority of the Nation's mines have shifted their roof support systems from primary reliance on timbers to primary reliance on roof bolts. This was done for quite a number of reasons. By far the overriding consideration in such a shift was safety, which in this case was closely tied to productivity. As mining became increasingly more mechanized and mining equipment became more and more mobile, the need was felt for a dependable means of roof support which could not be dislodged by mobile equipment. Roof bolts filled that need. In fact, the use of roof bolts became so widespread that by 1970 it was estimated that some 70,000,000 roof bolts were consumed and by 1973 this figure could grow to 90,000,000.

This product is currently produced by a number of companies only a very few of which are "integrated producers" in that they make the entire product from beginning to end. Rather, the majority of finished roof bolts are manufactured by companies which buy stock items which they then custom finish and fabricate into the product itself. At present, available fabricating facilities are standing unused due to apparent unavailability of certain key components used in the finished product.

As can be ascertained from Exhibits 1 and 2, the shortage of these components has already had a significant impact on the roof bolt fabricating industry. It has also had a significant impact on the coal mining industry itself. An informal survey done November 5, 1973, by MESA's Coal Mine Health and Safety Office, showed the following information:

With the exception of the anthracite industry, coal mines all over the country are reporting lowered inventories of roof bolts and a general inability to obtain roof bolts on a regular, predictable basis, with some companies describing their situation as "critical". As a result, no large mining operations are known to have actually ceased production at this time. However, they are obtaining roof bolts only on a "hand to mouth" basis and it appears as though any further decrease in availability could make major mine closures quite likely.

With this growing shortage in mind, it is important to note that the Department, through MESA, is responsible for safeguarding working conditions in these mines through the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801 et seq.). Regulations promulgated pursuant to this Act (see 30 C.F.R. 75.200 et seq.) specify minimum roof support criteria while the Act itself (supra. sec. 104) grants authority for MESA to close those mines not meeting those criteria. Inasmuch as the criteria specify minimum support, MESA has historically urged that more support be used when possible.

As the supply of bolts diminishes, many mines may no longer be physically able to exceed or even meet the minima criteria. When this occurs on a widespread basis, a significant increase in roof fall injuries and fatalities can be expected. Inasmuch as roof falls already constitute the leading cause of death and injury in coal mines, this situation can be allowed to develop.

Mines in several areas of the country have begun applying for modification of their roof control plans permitting increased use of timbering as well as recovery of old roof bolts from abandoned areas or abandoned mines. Also, we have received some reports of temporary closures of small mines in the Western United States and in North Eastern Kentucky.

It should be noted that, while applications have been made for modifications of roof control plans and recovery of roof bolts, both of these courses of action could lead to significant increases in mining accidents. Timbering, the only viable alternative to roof bolts is, in itself, significantly hazardous in that timbers are easily dislodged and are also a fire hazard. MESA has gone on record as opposing such modifications where the sole reason for making them is the shortage of bolts.

Recognizing that the health and safety of the Nation's miners is jeopardized by this shortage is justification enough for this submission. The impact of this shortage on the ability of the Nation to meet its energy needs must also be made clear. Within the next two years it is estimated that roof bolt consumption in coal mining alone will increase over 15%. While this figure does not take into account roof bolt consumption in the non-coal industries, it does point up the fact that expansion in bolt production capacity will play a major role in insuring an adequate supply of coal and hence electric power in the future. (See Exhibit 3)

After investigating the situation, extensive informal discussions were held with both the bolt manufacturers and many of the component suppliers. Several of the parties involved indicated that they could and would increase production of the needed components if given certain price relief. While the Department is not prepared at this time to make any specific requests for particular or class relief, we submit this statement and attached information to you in support of those requests you have received or will receive which are conditioned on the expansion of production of the concerned goods. We urge again that the Cost of Living Council expedite and grant all reasonable requests made pursuant to or in concert with this submission upon the corroboration of the involved data.

(NOTE: Due to the urgency of this situation, the submission is being made in advance of receiving some information that had been requested previously. It will be forwarded to you immediately following receipt by us along with any further material you might request.)

[Telegram]

CLEVELAND, OHIO,
September 21, 1973.

Senator JENNINGS RANDOLPH,
U.S. Senate,
Capitol Hill, D.C.:

Strongly suggest an immediate investigation of critical roof bolt and roof bolt plate shortage at West Virginia coal mines, Valley Camp 331 and Alexander mines. Suppliers of coal to Ohio Edison and Ohio power companies will shut down Sept. 26 for lack of bolts and plates. Valley Camp, other mines, suppliers of coal to Appalachian Power Co., Dayton Power and Light, Philadelphia Electric, and other electric utilities will close soon after unless immediate action corrects this shortage.

HERBERT S. RICHEY,
President, the Valley Camp Coal Co.

ROCHESTER & PITTSBURGH COAL CO.
Indiana, Pa., November 5, 1973.

Mr. MARK SAVIT,
Information Specialist, Department of the Interior, Washington, D.C.

DEAR MR. SAVIT: I am writing to advise you of the critical shortage of roof bolts which we are experiencing in our Company. We operate four large underground mines which supply coal directly by belt to two of the largest mine-mouth generating stations in the United States, namely, the Keystone and Homer City Electric Generating Stations.

We use a total of 90,000 roof bolts per month of assorted sizes.

We had three sources of supply for roof bolts: Republic Steel Company, Bethlehem Steel Company and Penn-Birmingham Bolt Company, Inc. Republic Steel Company discontinued making roof bolts in June of this year and the Penn-Birmingham Bolt Company advised us about a month ago that Jones & Laughlin Steel who supplied their roof bolt rods were discontinuing shipment to them because they could make more money on other materials. I confirmed this by talking on the telephone with Mr. William Roesch, President of Jones & Laughlin Steel Company about a week ago. I have also discussed the situation with the Bethlehem Steel people who advise us that they have asked for a 22% increase in the price of roof bolts in order to keep the business alive. Penn-Birmingham have made no promise of delivery beyond November 8 and Bethlehem Steel beyond December 31, 1973.

We presently have on hand and promised about a one-month supply of bolts but we have been unable to get a supply of bolts lined up after January 1. If we run out of roof bolts, we will have to shut down our mines which in turn will shut down the mine-mouth power generating stations who are major suppliers to the PJM System which includes Washington, D.C. I have been advised by the Generating Companies that this would cause a major power shortage in the East.

We have been picking up roof bolts wherever we can find them, including Canada and we are reconditioning scrap bolts in an effort to keep our head above water. We have also notified the owners of the two power stations which we serve of the seriousness of the situation and we have recommended that they get in touch with you immediately.

If there is any further information which we can give, please advise. My telephone number is (412) 465-5621.

Yours very truly,

GILBERT P. REMEY.

POTOMAC ELECTRIC POWER CO.,
Washington, D.C., November 7, 1973.

Mr. MARK SAVIT,
Information Specialist, Interior Department, Washington, D.C.

DEAR MR. SAVIT: This is to call to your attention a very critical situation which we hope can be resolved within the next few days. Fortunately, the problem does not appear to have a difficult solution and has probably not received the response from the Cost of Living Council because of the heavy work load that their office is subjected to at this time.

The situation is grave as it directly affects the electric power supply to the east central area of the United States in the immediate future and could encompass the rest of the country within a matter of weeks.

The problem is that the coal supply to major mine-mouth power plants may become dramatically curtailed because of the lack of roof bolts which are required by law for the normal operation of coal mines.

Roof bolts are under price controls regulations by the Cost of Living Council and we have been informed by a major user that, unless the controls are lifted and the allowed selling price increased, steel companies will continue to curtail their manufacture because the present price results in a loss.

It should be recognized that power generation obtained from coal is less expensive than that obtained from other fuels and, also, that coal usage greatly relieves the already severely limited fuel oil resources.

Any action you can initiate to alleviate this critical condition will be greatly appreciated.

Very truly yours,

J. C. HERBERT,
Vice President,
Purchasing and General Services.

[Telegram]

ROCHESTER & PITTSBURGH COAL CO.,
Indiana, Pa., October 7, 1973.

MARK SAVIT,
Information Specialist, Department of Interior, Washington, D.C.:

Roof bolt supply at our mines is at emergency level. We have only 2 weeks' usage, the lowest inventory in our history. No relief anticipated from our suppliers in the near future. Our mines provide employment for 1,400 people and I urge you to pull out all stops to keep these mines working, particularly during the Nation's energy crunch.

ROBERT I. BILLINGS,
Vice President, Operations.

ROBINSON-PHILLIPS COAL CO.,
Pineville, W. Va., November 8, 1973.

Hon. JENNINGS RANDOLPH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR RANDOLPH: We are writing you to call to your attention the critical shortage of steel used in the manufacture of mine roof bolts and shells and to ask for your help in any way that you can to eliminate the roof bolt shortage.

We are now operating five coal mines in southern West Virginia and employ approximately 250 employees.

In order to operate and mine the coal which is vital to the economy in this state and essential in face of the continuing fuel shortage in this country, we have to use roof bolts and shells to support the roof in the mines while the coal is being extracted.

Our suppliers of these roof bolts and shells have notified us that the steel companies who have been supplying the steel for these bolts and shells have notified them that they can no longer supply the steel requirements necessary in the manufacture of these bolts and shells.

We have been informed that the reason for the shortage of this particular type of steel is that the price is too low for the manufacturers to realize a profit and therefore are using the steel for other purposes.

The Cost of Living Council has rejected any price increases on the grounds that it isn't necessary.

Thank you in advance for your cooperation in this matter.

Yours very truly,

CLAUDE PHILLIPS,
President.

LETTER DICTATED OVER THE TELEPHONE TO MARK N. SAVIT, FROM MR. BOBLICK, OF MONTEREY COAL CO., NOVEMBER 8, 1973

(Confirmation to follow)

Monterey Coal Company has one underground mine located in Carlinville, Illinois. This is a new mine which started production in 1970. During 1972, the mine produced 1,974,000 tons and it is expected that the mine will produce 2,800,000 tons in 1973, at a rate of over 11,000 tons per day.

Monterey Coal Company continued its annual requirement for new roof bolts by blanket order. All of the 1972 bolt requirements were completed by Republic Steel Company, deliveries were filled promptly from their stock at Marion, Illinois. This order expired on January 31, 1973; at the same time, Republic Steel discontinued its production of mine roof bolts and discontinued fabricating machinery because of reported low cost profitability. It then became necessary to find a new source of supply and all 1973 requirements were contracted to Kentucky-Birmingham Bolt Company, Birmingham, Alabama, with delivery to be made from their Madisonville, Kentucky fabricating plant. Deliveries during the period of February to May, 1973, were made promptly within 2 or 3 days from date of our purchase order.

Commencing June, 1973, Birmingham delivery schedule began to deteriorate and delay in our shipment order has gone from 2 weeks in June to 3 weeks in September. In late September, delivery stopped altogether. At the present time, we have 5 Open Releases to Birmingham Bolt Company that date back eight weeks to September 6, 1973. We depleted our stock of 48" bolts on October 29, 1973 and have been forced to use 72" length bolts requiring much more labor for drilling the roof and paying a premium of 45% additional cost for these bolts. Weekly and recently, bi-weekly, expediting has been done

with Birmingham in order to get some of these orders filled. Their Sales Manager, repeatedly has informed us that they are out of bar steel and that they don't know when a supply can be expected but will make every effort to give us a load as soon as a steel supply arrives at their plant.

In order to fill Monterey's back orders, Birmingham needs 450 tons of steel bar stock. This is 56% of the tonnage they expect to receive during November. To meet all of their customer commitments, Birmingham requires 1,200 tons of bar stock. In November, they expect to receive only 800 tons (⅔ of amount requested) and 600 tons (1½ of amount requested) in December 1973.

Monterey has on hand a ten week supply of 30" bolts but only one week supply of high usage of 72" bolts which are being used as a substitute for 48" bolt requirements. We are taking delivery on another 17 week supply of 30" bolts purchased in September from a secondary source. Marion Mine Supply Company, Marion, Illinois has insurance against our depletion in the event of a prolonged steel shortage. This provides us with a 27 week supply of 30" bolts which can be used only in 25% of our working units; 75% or our current requirements are for 48" and 72" bolts and if we fail to secure delivery within the next week, it will be necessary to curtail our production 75% or a reduction of about 9,000 tons (1½ units trains) per day. As of yesterday, Birmingham advised us that they were out of bar stock and expected to receive only 25 tons the rest of the week and could make no definite delivery promise. In the past few months, all other known potential suppliers of roof bolts have been contacted by our purchasing personnel without success. All these other suppliers informed us that they were not receiving enough steel to satisfy their present commitments and therefore cannot accommodate any new business.

Delivery problems were discussed at length with the President, Birmingham Bolt Company, and he stated that since June 1 of this year, mill rolling and delivery of bar stock has worsened progressively by the week. He stated that in his opinion, the shortage of bar steel is because of controlled pricing during 1972 and prior years. Birmingham purchased bar stock from six steel companies: Phoenix Manufacturing, Joliet, Illinois; Knoxville Iron, Knoxville, Tennessee; Jones and Laughlin; Georgetown Steel Company; Laclede Steel, St. Louis, Missouri; and U.S. Steel Company. All except two of these companies (Phoenix and U.S. Steel) have discontinued rolling of bar stock for roof bolt fabrication because of reported low profitability.

We would appreciate any assistance that you may give the coal industry to alleviate this critical roof bolt shortage.

PROGRAM FOR TOMORROW

Mr. HUGH SCOTT. Mr. President, I rise for the purpose of inquiring how many more votes we have for tonight.

Mr. MANSFIELD. No more.

Mr. HUGH SCOTT. What will happen tomorrow? We had 17 votes today, I believe, so it has been a good day.

Mr. MANSFIELD. Yes.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATORS DOMENICI, TAFT, DOMINICK, AND ROBERT C. BYRD TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the joint leaders or their designees have been recognized under the standing order tomorrow, the distinguished Senator from New Mexico (Mr. DOMENICI), the distinguished Senator from Ohio (Mr. TAFT), the distinguished Senator from Colorado (Mr. DOMINICK), and the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) be recognized for not to exceed 15 minutes each.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, on tomorrow, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

APPROPRIATIONS FOR MILITARY CONSTRUCTION, FISCAL YEAR 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 11459, the military construction appropriation bill for 1974, be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

H.R. 11459, authorizing appropriations for military construction for fiscal year 1974.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President following consideration of the military construction appropriation bill tomorrow, it is the intention of the leadership to proceed to the consideration of Calendar No. 388, a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome, and so forth.

Other unobjected-to items that are on the calendar will be called up tomorrow also.

PROGRAM FOR NEXT WEEK

Mr. MANSFIELD. Mr. President, on Monday, November 26, 1973, there will be two treaties on which there will be a vote. Continuation of the Rhodesian chrome bill and other matters will be the pending business.

On Tuesday the Senate will take up the Ford nomination, if everything goes according to Hoyle.

Following that, the daylight saving bill, Calendar No. 479, S. 2702, will be taken up.

I ask unanimous consent, if this meets with the approval of the distinguished Senators from New Hampshire (Mr. COTTON), Kentucky (Mr. COOK), and Washington (Mr. MAGNUSON) that there be a time limitation of 3 hours on the daylight saving bill.

Mr. DOMINICK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, we are trying to get through the administration's energy program. We had hoped to bring up the daylight saving bill now.

Mr. DOMINICK. I should like to explain, if the Senator will yield.

Mr. MANSFIELD. I yield.

Mr. DOMINICK. At the moment, we have every plan of putting a minimum wage bill on as an amendment, and we cannot do it if there is unanimous consent as to nongermane amendments, which is why I objected.

Mr. MANSFIELD. I understand. But I want the RECORD to show that, so far as the leadership was concerned—and I think I speak for the joint leadership—we were prepared to go ahead with another specific in the administration's energy program.

The Senator may recall that the President has accused Congress of being derelict in its responsibilities in facing up to this type of legislation, when exactly the opposite is true.

I must say, in all honesty, that we have been ahead of the administration, and Congress in general, but the Senate especially—both Democrats and Republicans are to be commended. I do not know what the situation will be on the daylight saving bill now.

Mr. HUGH SCOTT. If the Senator will yield, I had agreed with the proposal on the assumption as he has stated, that the distinguished Senator from New Hampshire (Mr. COTTON) has been notified and is satisfied, and I understand we have that assurance from the distinguished Senator from Kentucky (Mr. COOK).

Mr. MANSFIELD. That is right.

Mr. HUGH SCOTT. So that at that time I had no information of any objection.

I would hope that we could act as soon as possible on the daylight saving bill in order to accomplish the purposes of that bill.

Mr. MANSFIELD. Then we have Calendar No. 471, S. 2686, a bill to amend the Economic Opportunity Act of 1964. There will be some discussion on that.

Then we have Calendar No. 481, S. 2705, a bill to provide for the disposition of abandoned money orders and travelers checks; Calendar No. 488, S. 2551, a bill to authorize the disposal of molybdenum from the national stockpile; Calendar No. 492, Senate Concurrent Resolution 57, dealing with housing; Calendar No. 498, S. 2548, a bill to amend title 5, United States Code; Calendar No. 499, H.R. 6334, to provide for the uniform application of the position classification and general schedule pay rate provisions of title 5, United States Code; Calendar No. 497, S. 1038, to amend title 37, United States Code; Calendar No. 520, H.R. 10511, to amend section 164 of the Federal-Aid Highway Act of 1973.

So we have a pretty tough schedule ahead of us. That is about all I can say as to what the calendar contains.

Mr. HUGH SCOTT. I do not believe the majority leader has mentioned the possible program for Wednesday of this week.

Mr. MANSFIELD. What does the Senator think I was reeling off?

Mr. HUGH SCOTT. I assume that we will have work to do if we have people to do it on Wednesday.

Mr. MANSFIELD. If we have work to do—and I think we will—I want to assure the distinguished Senator and the Senate that we will be in session. But if it is a case of marking time, we will just have a pro forma session. We will try to give as much notice in advance as possible, so that Members can take advantage of a little additional time, if it is possible.

Mr. HUGH SCOTT. Should the Senate Judiciary Committee, which is meeting tomorrow, report the emoluments bill in accordance with its instructions, without amendment, is it possible to consider that bill before the recess?

Mr. MANSFIELD. Personally, I would like to, but, practically, I do not think it will be possible, because, on the basis of what I have been hearing and reading, it seems that a grave constitutional question has arisen, and I would assume that there would be considerable debate on that matter. So we will have to wait and play it by ear.

Mr. HUGH SCOTT. I thank the distinguished majority leader.

Mr. MANSFIELD. I thank the distinguished Senator from Colorado for telling the joint leadership what he intends to do. We had no idea it was in the offing.

Mr. DOMINICK. I understand.

FAIR LABOR STANDARDS AMENDMENTS OF 1973—INTRODUCTION OF A BILL

Mr. DOMINICK. Mr. President, on behalf of myself, Mr. TAFT, and Mr. BEALL, I send to the desk a bill to amend the Fair Labor Standards Act (S. 2727) to provide for increased minimum wage rates, and for other purposes.

I ask unanimous consent that the bill be considered as having been read twice and that it be placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. WILLIAMS. Mr. President, rather than go into a great deal of discussion, the Senator from Colorado knew that Senator Javits and I were going to object to that procedure, and I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the first time by title.

Mr. DOMINICK. I also ask unanimous consent that the text of the bill be printed in the RECORD, to be followed by a section-by-section analysis and a cost impact chart prepared by the Labor Department.

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

(See exhibits 1 and 2.)

The PRESIDING OFFICER. The clerk will read the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2727) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

The PRESIDING OFFICER. Is there objection to the second reading?

Mr. WILLIAMS. That was the objection.

The PRESIDING OFFICER. Objection is heard.

The bill will go over 1 day before it has its second reading.

EXHIBIT 1

S. 2727

A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, 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 "Fair Labor Standards Amendments of 1973".

DEFINITIONS AND APPLICABILITY TO GOVERNMENT EMPLOYEES

SEC. 2. (a) Section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (d)) is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee, including the United States, any State or political subdivision of a State, and any agency or instrumentality thereof or interstate governmental agency, but shall not include any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

(b) Section 3(e) of such Act is amended by adding at the end thereof the following: "In the case of any individual employed by the United States, 'employee' means any individual employed (i) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (ii) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (iii) in the United States Postal Service and the Postal Rate Commission, (iv) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (v) in the Library of Congress. In the case of any individual employed by a State, or the political subdivision of any State or an interstate governmental agency the term 'employee' shall include any employee of that State, political subdivision, or agency but the term shall not include any individual elected to public office in any State or political subdivision of any State by the qualified voters thereof or any person chosen by such officer to be on such officers' personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government or political subdivision or applicable to an interstate governmental agency."

(c) Section 3(h) of such Act is amended to read as follows:

"(h) 'Industry' means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.".

(d) The last sentence of section 3(m) is amended to read as follows: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 percentum of the applicable minimum wage rate, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (1) such employee has been informed by the employer of the provisions of this section, and (2) all tips received by such employee have been retained by the employee, except that nothing herein shall prohibit the pooling of tips among employees who customarily and regularly receive tips."

(e)(1) The first sentence of section 3(r) of such Act is amended by inserting after the word "whether", the words "public or private or conducted for profit or not for profit, or whether".

(2) The second sentence of such subsection is amended to read as follows: "For purposes of this subsection, the activities performed by any person in connection with the activities of the Government of the United States or any State or political subdivision shall be deemed to be activities performed for a business purpose.".

(f) The first sentence of section 3(s) of such Act is amended by inserting after the words "means an enterprise", the parenthetical clause "(whether public or private or operated for profit or not for profit and including activities of the Government of the United States or of any State or political subdivision of any State)".

(g) Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to any individual employed in the Library of Congress, to provide for the carrying out of his functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is responsible for administering the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the United States Postal Service and Postal Rate Commission). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.".

(h) Section 13(b) of such Act is amended by striking out the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following new paragraph:

"(20) any employee employed by the United States (A) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (B) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (C) in the United States Postal Service and the Postal Rate Commission, (D) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (E) in the Library of Congress; and any employee employed by any State or a political subdivision of any State and any agency or instrumentality thereof or interstate governmental agency."

INCREASE IN MINIMUM WAGE

SEC. 3. (a) Section 6(a)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(1)(A) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973,

"(B) not less than $2 an hour during the second year from the effective date of such amendments,

"(C) not less than $2.10 an hour during the third year from the effective date of such amendments,

"(D) not less than $2.20 an hour during the fourth year from the effective date of such amendments, and

"(E) not less than $2.30 an hour thereafter."

(b) Paragraph (5) of section (6)(a) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than $1.50 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973, not less than $1.70 an hour during the second year from the effective date of such amendments, not less than $1.90 an hour during the third year from the effective date of such amendments, and not less than $2 an hour thereafter."

(c)(1) Section 6(b) of such Act is repealed.

(2) Subsections (c), (d), and (e) of section 6 of such Act are redesignated as subsections (b), (c), and (d), respectively.

EMPLOYEES IN THE CANAL ZONE

SEC. 4. Section 6(a) of the Fair Labor Standards Act of 1938 is amended by striking out the period at the end of paragraph (5) of such section and inserting in lieu thereof a semicolon and the word "or", and by adding at the end thereof the following new paragraph:

"(6) if such employee is employed in the Canal Zone not less than $ .60 an hour."

EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 5. Paragraphs (A) and (B) of section 6(b)(2) of the Fair Labor Standards Act of 1938 (as redesignated by section 3(c)(2) of this Act) are amended to read as follows:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 increased by 12.5 per centum unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rates or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1973, or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B)(i) Effective one year after the applicable effective date under paragraph (A), the rate or rates prescribed by paragraph (A) increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C).

"(ii) Effective two years after the applicable effective date under paragraph (A), the rate or rates prescribed by subparagraph (i) of this paragraph increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C)."

PROOF OF AGE REQUIREMENT

SEC. 6. Section 12 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"(d) In order to carry out the objectives of this section, the Secretary may by regulations require employers to obtain from any employee proof of age."

CHILD LABOR IN AGRICULTURE

SEC. 7. (a) Section 13(c)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) the provisions of section 12 (relating to child labor) shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"(A) is employed by his parents, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or

"(B) is fourteen years of age or older, or

"(C) is twelve years of age or older, and (i) such employment is with the written consent of his parent or person standing in place of his parent, or (ii) his parent or such person is employed on the same farm.".

(b) Section 13(d) of such Act is amended to read as follows:

"(d) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer, and the provisions of section 12 shall not apply with respect to any such employee when engaged in the delivery to households or consumers of shopping news (including shopping guides, handbills, or other type of advertising material) published by any weekly, semiweekly, or daily newspaper."

EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTH: SPECIAL MINIMUM WAGES FOR EMPLOYEES UNDER EIGHTEEN AND STUDENTS

SEC. 8. Section 14(b) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(b)(1) Subject to paragraph (2) and to such standards and requirements as may be required by the Secretary under paragraph (4), any employer may, in compliance with applicable child labor laws, employ, at the special minimum wage rate prescribed in paragraph (3), any employee—

"(A) to whom the minimum wage rate required by section 6 would apply in such employment but for this subsection, and

"(B) who is under the age of eighteen or is a full-time student.

"(2) No employer may employ, at the special minimum wage rate authorized by this subsection—

"(A) for a period in excess of one hundred and eighty days any employee who is under the age of eighteen and is not a full-time student; or

"(B) for longer than twenty hours per week any employee who is a full-time student, except in any case in which any such student (i) is employed by the educational institution at which he is enrolled, or (ii) is employed during a school vacation in a retail or service establishment or in agriculture.

"(3) The special minimum wage rate authorized by this subsection is a wage rate which is not less than the higher of (A) 85 per centum of the otherwise applicable minimum wage rate prescribed by section 6, or (B) $1.30 an hour in the case of employment in agriculture or $1.60 an hour in the case of other employment, except that such special minimum wage rate for employees in Puerto Rico, the Virgin Islands, and American Samoa shall not be less than 85 per centum of the industry wage order rate otherwise applicable to such employees, but in no case shall such special minimum wage rate be less than that provided for under the most recent wage order issued prior to the effective date of the Fair Labor Standards Act of 1973.

"(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.

"(5) For purposes of sections 16(b) and 16(c)—

"(A) any employer who employs any employee under this subsection at a wage rate which is less than the minimum wage rate prescribed by paragraph (3) shall be considered to have violated the provisions of section 6 in his employment of the employee, and the liability of the employer for unpaid wages and overtime compensation shall be determined on the basis of the otherwise applicable minimum wage rate under section 6; and

"(B) any employer who employs any employee under this subsection for a period in excess of the period prescribed by paragraph (2) shall be considered to have violated the provisions of section 6 in his employment of the employee during the period in excess of the authorized period."

CIVIL PENALTY FOR CERTAIN LABOR VIOLATIONS

SEC. 9. Section 16 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

"(1) deducted from any sums owing by the United States to the person charged; or

"(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

"(3) ordered by the court, in an action brought under section 17 to restrain violations of section 15(a)(4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled 'An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes' (48 Stat. 582)."

PENALTIES

SEC. 10. (a) The first three sentences of section 16(c) of the Fair Labor Standards Act of 1938, as amended, are amended to read as follows:

"The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under sections 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary of Labor in an action under this subsection in which a recovery is sought of unpaid wages or unpaid overtime compensation under sections 6 and 7 or other damages provided by this subsection owing to such employee by an employer liable under the provision of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary."

(b) Section 11 of the Portal-to-Portal Pay Act of 1947 is amended by deleting "(b)" after "section 16".

NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT EMPLOYMENT

SEC. 11. (a)(1) The second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.".

(2) Section 11(c) of such Act is amended by striking out ", or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance".

(3) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.".

(4) Section 16 of such Act is amended by striking figure "$3,000,000", and inserting in lieu thereof "$5,000,000".

(b)(1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, a section 16 and section 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 15 (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from non-appropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriated remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and (appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit;

(2) "consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age in a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any persons aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law.".

EXEMPTION REVIEW

SEC. 12. The Secretary of Labor is hereby instructed to commence immediately a comprehensive review of the exemptions under section 13 of the Fair Labor Standards Act of 1938 and submit to the Congress not later than three years after the date of enactment of this Act a report containing: (1) an analysis of the reasons why each exemption was established; (2) an evaluation of the need for each exemption in light of current economic conditions, including an analysis of the economic impact its removal would have on the affected industry; and (3) recommendations with regard to whether each exemption should be continued, removed, or modified.

SEC. 13. (a) The Secretary shall contract for a study to determine the extent, if any, of the impact on employment of the increase in minimum wages prescribed pursuant to the amendments made to the Fair Labor Standards Act of 1938 by each of sections 3 and 5 of this Act, and to develop statistical information and techniques designed to predict the probable impact, if any, on employment of future increases in minimum wages. Each such study shall contain statistical information with respect to such impact on categories of employment and unemployment including but not limited to age, sex, occupation, education, ethnic origin, size, and business of employer, and geographic area, including Puerto Rico, the Virgin Islands, and the Panama Canal Zone.

(b) The Secretary shall prepare and furnish the Congress on an annual basis, beginning nine months after the effective date of the Fair Labor Standards amendments of 1973, with reports on the interim findings of each such study, and with a final report on the findings of each such study within twenty-one months after the highest minimum wage rate prescribed by each of said sections shall have become effective.

(c) Ninety days prior to the effective date of each increase in minimum wages prescribed pursuant to the amendments made to the Fair Labor Standards Act of 1938 by sections 3 and 5 of this Act, the Secretary shall provide the Congress with an employment impact statement establishing category of employment of each such prospective increase, together with a summary of the basis for each statement.

TECHNICAL AMENDMENTS

SEC. 14. (a) Section 6(c)(2)(C) of the Fair Labor Standards Act of 1938 is amended by substituting "1973" for "1966".

(b)(1) Section 6(c)(3) of such Act is repealed.

(2) Section 6(c)(4) of such Act is redesignated as 6c(3).

(c)(1) Section 7(a)(1) of such Act is redesignated as 7(a).

(2) Section 7(a)(2) of such Act is repealed.

(d) Section 14(c) of such Act is repealed and section 14(d) is redesignated as 14(c).

(e) Section 18(b) is amended by striking out "section 6(b)", and inserting in lieu thereof "section 6(a)(6)", and by striking out "section 7(a)(1)" and inserting in lieu thereof "section 7(a)".

EFFECTIVE DATE

SEC. 15. Except as otherwise provided in this Act, the amendments made by this Act shall take effect sixty days after enactment. On and after the date of enactment of this Act, the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

EXHIBIT 2

SECTION BY SECTION ANALYSIS OF S. 2727

SECTION 2

Amends section 3(d) and 3(e) of the Fair Labor Standards Act to include under the definitions of "employer" and "employee" the

United States and any state or political subdivision of a state. This would extend minimum wage coverage to an estimated 5 million federal, state and local government employees (1.7 million federal, 3.3 million state and local government). Military personnel, professional, executive and administrative personnel, employees in non-competitive positions, and volunteer-type employees, such as Peace Corps and Vista, would not be included in the extension of coverage, nor would elected officials or their personal staff. (conforms with S. 1861, except that minimum wage coverage only—not overtime—is extended to such employees.)

Also amends section 3(m), under which tips, up to 50 percent of the applicable minimum wage rate, may be included for purposes of computing wages paid employees. New requirement added, that in order for employer to qualify for tip credit, employees must be informed of the law, and must actually retain all tips received. (Conforms with section 2(d) of S. 1861.)

SECTION 3

Amends section 6(a)(1) of the Fair Labor Standards Act to raise the minimum wage for non-agricultural employees to $2.30 an hour in five steps over a four-year period. The minimum wage would be raised to $1.80 an hour on the effective date of these amendments (60 days after enactment); to $2.00 an hour one year later; to $2.10 two years after the effective date; to $2.20 three years after the effective date, and to $2.30 four years after the effective date. These increases would apply equally to all non-agricultural employees within the coverage of the Act, regardless of when they were first covered.

Amends section 6(a)(5) of the Act to raise the minimum wage for agricultural employees to $1.50 an hour during the first year after the effective date of these amendments, $1.70 an hour during the second year, $1.90 an hour during the third year, and $2.00 an hour thereafter.

SECTION 4

Amends section 6(a) of the Fair Labor Standards Act to retain the present minimum wage of $1.60 an hour for employees in the Canal Zone.

SECTION 5

Amends section 6(c) of the Fair Labor Standards Act to raise the minimum wage in Puerto Rico and the Virgin Islands by three 12½ percent increases over the most recent wage order rate, the first increase to be effective either 60 days after enactment of the bill or one year after the effective date of the most recent wage order, whichever is later. The second increase would be effective one year after the first; the third increase would be effective one year after the second.

SECTION 6

Amends section 12 of the Fair Labor Standards Act to authorize the Secretary of Labor to require employers to obtain proof of age from any employee. This would facilitate enforcement of the child labor provisions of the Act. (Conforms with section 5 of S. 1861.)

SECTION 7

Amends section 13(c)(1) of the Fair Labor Standards Act, which relates to child labor in agriculture, to prohibit employment of children under 12 except on farms owned or operated by parents; and to prohibit employment of children aged 12 and 13 except with written consent of their parents, or on farms where their parents are employed. (Conforms with section 6(c) of S. 1881.)

Amends section 13(d) of the Act to extend the existing child labor exemption for newsboys delivering daily newspapers to newsboys delivering advertising materials published by weekly and semi-weekly newspapers. Does not create a new minimum wage or overtime exemption.

SECTION 8

Amends section 14(b) of the Fair Labor Standards Act to establish a special minimum wage rate for youth under 18 and full-time students of 85 percent of the applicable minimum wage or $1.60 an hour ($1.30 an hour for agricultural employment), whichever is higher. The special minimum wage for the same employees in Puerto Rico, the Virgin Islands, and American Samoa would be 85 percent of the industry wage order rate applicable to them, but not less than the rate in effect immediately prior to the effective date of the Fair Labor Standards Amendments of 1973.

Non-students under 18 would qualify for the "youth differential" rate only during their first 6 months on a job. Full-time students would qualify for the differential rate (a) while employed at the educational institution they are attending; or (b) while employed part-time (not in excess of 20 hours per week) at any job, except that they could work full-time during school vacations at jobs in retail-service industries or agriculture.

The existing requirement in the Act that employers receive Labor Department certification prior to employment of youth at the special minimum rate would be removed. The Secretary of Labor would be required to issue regulations insuring against displacement of adult workers. Employers violating the terms of the youth differential provision would be subject to existing civil and criminal penalty provisions of the Act.

SECTION 9

Amends section 16 of the Fair Labor Standards Act to provide for a civil penalty of up to $1,000 for each violation of the child labor provisions of section 12 of the Act. Conforms with section 9 of S. 1861.)

SECTION 10

Amends section 16(c) to allow the Secretary of Labor to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring a written request from an employee. In addition, this amendment would allow the Secretary to bring such actions even though the suit might involve issues of law that have not been finally settled by the courts. (Conforms with section 8(b) of S. 1861.)

SECTION 11

Amends the Age Discrimination in Employment Act of 1967 (P.L. 90–202) to extend its coverage to federal, state and local government employees. (Conforms with section 12 of S. 1861.)

SECTION 12

Requires the Secretary of Labor to undertake a comprehensive review of the minimum wage and overtime exemptions under section 13 of the Fair Labor Standards Act and to submit to Congress within three years a report containing recommendations as to whether each exemption should be continued, removed or modified.

SECTION 13

Directs the Secretary of Labor to contract for a study estimating the impact which the minimum wage increases provided for in this bill will have on employment among various categories of workers. The study will also develop the methodology necessary to predict the employment effects of future minimum wage increases.

SECTION 14

Technical amendments.

SECTION 15

Provides that the amendments made by this Act would become effective sixty days after enactment, and authorizes Secretary of Labor to promulgate regulations necessary to carry out such amendments.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. — (DOMINICK-TAFT AND BEALL BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1974[1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	1,965	3.8	$539	0.1	51,980	$383,890
Employees presently subject to the minimum age	1,894	4.0	489	.1	46,950	341,549
Employees subject to the minimum wage prior to 1966 amendments to $1.80	636	1.8	517	.1	35,159	276,531
Employees subject to the minimum wage as a result of 1966 amendments	1,258	10.7	332	.5	11,791	65,018
Federal employees—wage board and nonappropriated fund to $1.80	30	4.7	7	.1	636	5,462
State and local government to $1.80	286	10.2	70	.5	2,817	14,896
Other private nonfarm employees to $1.80	878	11.2	241	.6	7,853	43,058
Farmworkers to $1.50	64	13.2	14	.9	485	1,602
Employees subject to the minimum wage as a result of 1973 amendments	71	1.4	50	.1	5,030	42,341
Federal employees to $1.80					1,697	15,625
State and local government to $1.80	71	2.1	50	.2	3,333	26,716

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1974, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

Source: Employment Standards Administration, Nov. 15, 1973.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. —— (DOMINICK-TAFT-BEALL BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1975 [1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	2,890	5.6	$920	0.2	51,980	$403,333
Employees presently subject to the minimum wage	2,787	5.9	886	.2	46,950	358,839
Employees subject to the minimum wage prior to 1966 amendments to $2	1,027	2.9	324	.1	35,159	290,405
Employees subject to the minimun. wage as a result of 1966 amendments	1,760	14.9	562	.8	11,791	68,434
Federal employees—wage board and nonappropriated fund to $2	40	6.3	12	.2	636	5,739
State and local government to $2	394	14.0	116	.7	2,817	15,674
Other private nonfarm employees to $2	1,235	15.7	411	.9	7,853	45,331
Farmworkers to $1.70	91	18.8	23	1.4	485	1,690
Employees subject to the minimum wage as a result of 1973 amendments	103	2.0	34	.1	5,030	44,494
Federal employees to $2					1,697	16,406
State and local government to $2	103	3.1	34	.1	3,333	28,088

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1975, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

Source: Employment Standards Administration, Nov. 15, 1973.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. —— (DOMINICK-TAFT & BEALL BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1976 [1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	2,917	5.6	$574	0.1	51,980	$423,975
Employees presently subject to the minimum wage	2,814	6.0	553	.1	46,950	377,240
Employees subject to the minimum wage prior to 1966 amendments to $2.10	1,027	2.9	205	.1	35,159	305,075
Employees subject to the minimum wage as a result of 1966 amendments	1,787	15.2	348	.5	11,791	72,165
Federal employees—wage board and nonappropriated fund to $2.10	40	6.3	7	.1	636	6,033
State and local government to $2.10	394	14.0	67	.4	2,817	16,523
Other private nonfarm employees to $2.10	1,235	15.7	243	.5	7,853	47,821
Farmworkers to $1.90	118	24.3	31	1.7	485	1,788
Employees subject to the minimum wage as a result of 1973 amendments	103	2.0	21	(2)	5,030	46,735
Federal employees to $2.10					1,697	17,227
State and local government to $2.10	103	3.1	21	.1	3,333	29,508

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1976, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

[2] Less than 0.05 percent.

Source: Employment Standards Administration, Nov. 15, 1973.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S. —— (DOMINICK-TAFT AND BEALL BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1977 [1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	2,918	5.6	$561	0.1	51,980	$445,227
Employees presently subject to the minimum wage	2,815	6.0	540	.1	46,950	396,156
Employees subject to the minimum wage prior to 1966 amendments to $2.20	1,027	2.9	205	.1	35,159	320,337
Employees subject to the minimum wage as a result of 1966 amendments	1,788	15.2	335	.4	11,791	75,819
Federal employees—wage board and nonappropriated fund to $2.20	40	6.3	7	.1	636	6,335
State and local government to $2.20	394	14.0	67	.4	2,817	17,355
Other private nonfarm employees to $2.20	1,235	15.7	243	.5	7,853	50,235
Farmworkers to $2	119	24.5	18	1.0	485	1,894
Employees subject to the minimum wage as a result of 1973 amendments	103	2.0	21	(2)	5,030	49,071
Federal employees to $2.20					1,697	18,088
State and local government to $2.20	103	3.1	21	.1	3,333	30,983

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1977, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

[2] Less than 0.05 percent.

Source: Employment Standards Administration, Nov. 15, 1973.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES PAID LESS THAN THE MINIMUM WAGE RATES SPECIFIED IN S.——(DOMINICK-TAFT AND BEALL BILL) AND ESTIMATED COST OF RAISING THEIR WAGES TO THOSE RATES ON JAN. 1, 1978[1]

Coverage status and proposed minimum wage rate	Employees paid less than proposed rate		Annual wage bill increase		Total number of employees (thousands)	Projected annual wage bill (millions)
	Number (thousands)	Percent	Amount (millions)	Percent		
Total, all nonsupervisory employees subject to the minimum wage	2,799	5.4	$543	0.1	51,980	$467,489
Employees presently subject to the minimum wage	2,696	5.7	522	.1	46,950	415,966
Employees subject to the minimum wage prior to 1966 amendments to $2.30	1,027	2.9	205	.1	35,159	336,349
Employees subject to the minimum wage as a result of 1966 amendments	1,669	14.2	317	.4	11,791	79,617
Federal employees—wage board and nonappropriated fund to $2.30	40	6.3	7	.1	636	6,652
State and local government to $2.30	394	14.0	67	.4	2,817	18,223
Other private nonfarm employees to $2.30	1,235	15.7	243	.5	7,853	52,750
Farmworkers at $2 since Jan. 1, 1977					485	1,992
Employees subject to the minimum wage as a result of 1973 amendments	103	2.0	21	(2)	5,030	51,532
Federal employees to $2.30					1,697	18,992
State and local government to $2.30	103	3.1	21	.1	3,333	32,531

[1] Estimates are based on employment in September 1972 and earnings levels projected to Jan. 1, 1978, assuming an annual increase of 5 percent. For tipped employees, earnings include cash wages plus an allowance of 50 percent of the applicable minimum wage for tips. Estimates exclude changes proposed for employees in Puerto Rico and the Virgin Islands.

[2] Less than 0.05 percent.

Source: Employment Standards Administration, Nov. 15, 1973

THE ENERGY CRISIS

Mr. MANSFIELD. Mr. President, on November 7, 1973—and we are still in the month of November—the President addressed the Nation, outlining the steps to deal with energy emergency. In his address, he said:

That is why it is time to act now on vital energy legislation that will affect our daily lives, not just this year, but for years to come.

We must have the legislation now which will authorize construction of the Alaska pipeline—legislation which is not burdened with irrelevant and unnecessary provisions.

We must have legislative authority to encourage production of our vast quantities of natural gas, one of the cleanest and best sources of energy.

We must have the legal ability to set reasonable standards for the surface mining of coal.

And we must have the organizational structures to meet and administer our energy programs.

And therefore, tonight, as I did this morning in meeting with the Congressional leaders, I again urge the Congress to give its attention to the initiatives I recommended 6 months ago to meet these needs that I have described.

Finally, I have stressed repeatedly the necessity of increasing our energy research and development efforts. Last June, I announced a 5-year, $10 billion program to develop better ways of using energy and to explore and develop new energy sources. Last month I announced plans for an immediate acceleration of that program.

Mr. President, action taken on energy legislation recommended by the President is as follows:

Alaska pipeline (S. 1081)—passed by both houses of Congress and signed into law (Public Law 93-153) by the President on November 16, 1973.

Surface mining reclamation legislation (S. 425)—passed the Senate October 9, 1973. Minerals Subcommittee in the House Interior Committee has completed markup and has introduced a clean bill.

Energy research and development bill (S. 1283)—the administration opposes the bill. It does not want a law; they want only appropriations. Open hearings by the full committee on June 21 and June 22; July 11 and July 12. Full committee markup session October 23, October 31, and November 2. Markup scheduled for November 16 had to be postponed because of floor debate on S. 2589. One more day will be needed to complete markup.

Outer Continental Shelf leases in Santa Barbara channel (S. 1951)—open hearings held by Minerals Subcommittee on November 13, 1973. Administration withdrew bill.

Deepwater Ports Facilities (S. 1751)—joint hearings by Interior, Public Works and Commerce Committees—July 23, 24, and 25, August 1, October 2, October 3, 1973. Ready for markup after Thanksgiving.

Deregulation of gas (S. 2506 and S. 2048)—before Committee on Commerce in the Senate. Open hearings held October 10, 11, 24 and 25, and November 7 and 8. Additional open hearings will be held but not yet scheduled.

Department of Energy and Natural Resources (S. 2135)—pending before Senate Government Operations Committee. Open hearings held July 31 and August 1 and September 28. Additional open hearings planned after Thanksgiving.

This is what the Senate has done:

Emergency bill (S. 2589)—final passage at 6 p.m. today.

Allocation bill (S. 1570)—on the President's desk.

Strategic Petroleum Reserves (S. 1586)—ready for mark-up.

Conservation Policy for Energy (S. 2176)—on the Senate Calendar; reported by the committee.

Coal Conversion Act (S. 2652)—hearings in December.

I think the record will speak for itself. Again I want to say, as I have many times, that I think the Senate is to be commended for the outstanding job it has done. I include both Democrats and Republicans in my commendation. They are to be commended for the cooperation, interest, and energy they have shown in bringing out energy legislation. The Senate is to be commended as a whole not only for having considered the legislation but having passed it, as well. The record of the Senate will speak for itself, and the Senate has not confined itself to rhetoric or to messages, but has acted on the basis of a cooperative attitude and the best interests of the Nation as a whole.

Mr. FANNIN. Mr. President, I thank the distinguished majority leader for his comments on what the Senate has been able to accomplish. We all realize that the Committee on Interior and Insular Affairs has been very busy.

Mr. MANSFIELD. Absolutely, it has done a remarkable job.

Mr. FANNIN. I certainly pay tribute to the chairman of the committee, the Senator from Washington (Mr. JACKSON) and the members of the committee. I am very proud that the Republican members of the committee have been so faithful in making quorums and working on the legislation.

I join the majority leader in praising the Senate, but I also am very pleased to commend President Nixon for the position he has taken and for his dedication to accomplishing the objectives we all share. He has proclaimed a goal of self subsistance to be reached by 1980, one that will require a great deal of effort to reach.

I also commend the Secretary of the Interior, Rogers Morton, because as we all realize he has been very diligent in his efforts in this area.

We have a serious problem. We are experiencing shortages because we are using much more energy than ever before. We are unfortunate in that respect; but we have the capacity because of the natural resources in this country to achieve the goals the President has set.

Fortunately, we have almost one-half of the known coal reserves in the world. The Senator from Montana is very fortunate to have in his own State a vast amount of coal.

So we have many reasons to be hopeful, in spite of the shortages that have

resulted from the way in which we have depleted our energy resources.

I feel the programs we are carrying forward do not address all the issues with which we must deal. We should emphasize increasing our supply of fuels to a much greater extent than is now the case. The President has recommended that we go forward at a faster pace. The chairman of the Committee on Interior and Insular Affairs has advocated spending vast sums of money for research and development programs. On these we are working with the House, and with the Executive Department.

The administration, is dedicated to the same end and I feel that we must approach this matter on a bipartisan basis. This has been true all through the hearings we have held. I do want my colleagues to realize that the Republicans are dedicated, just as the Democrats are dedicated, to reaching this goal.

I again express my appreciation to the distinguished majority leader for bringing this legislation up at this time.

Mr. MANSFIELD. I thank the distinguished senior Senator from Arizona for his gracious and kind remarks.

As far as the Senate is concerned we will be prepared all year to cooperate and to go half way and more than half way if need be to cooperate with the administration to carry out the business of the Nation.

Again I want to say, as I have said many times, I have never been more proud of the Senate in my many years down here than I have this year.

Mr. HANSEN. Mr. President, I regret that this bill does not address the overriding issue of energy supply. Unfortunately, the Senate refused to face up to this critical problem. On many occasions the Senate displayed a greater anxiety over the popular issue of a pollution-free environment than was reflected a clear understanding of the significance of an adequate energy supply to keep America warm, jobs assured, and to provide the security that goes with having America's industrial, domestic, and military needs guaranteed reasonable fulfillment as only domestic energy resources can do.

Whether we like it or not, neither Executive order nor legislative action can long suspend the laws of supply and demand. Whether we like it or not, petroleum and natural gas costs will rise. World demand and the supply situation assures that.

Sooner or later America will take steps—must take steps—to make domestic reserves of oil and gas more plentiful.

When homes are cold, jobs shut down, schools are closed, and industry is slowed, there will be a clearer understanding by Members for the need to increase supply.

The danger is that Americans may blame industry; buy the phony line that Government management of this complicated industry is the solution to their problems.

I hope that in conference a better bill might result.

Time is running out.

Thus, with misgiving I voted for the bill. I pay tribute to my colleagues on both sides of the aisle for their diligent attention to their task. I pay tribute to the staffs on both sides of the aisle for the long hours in perfecting the bill, the time they spent on weekends trying to pull together the recommendations that were made by both the majority and minority members of the committee. It has been a joint effort, and despite my disappointment in the final result, I must say that it has been a real privilege to work with such fine, dedicated people, both on the committee itself and on the staff.

Mr. GRIFFIN. Mr. President, since this seems to be a time for taking stock and looking at the ledger, insofar as the energy problem is concerned, let me say, not necessarily to take issue with the distinguished majority leader, but so we may put the record in some perspective, that it was in June of 1971 when President Nixon delivered the first energy message delivered by any President of the United States, calling the attention of the country and the Congress to the developing problems in the energy field.

And while I share the sense of pride and the admiration for particular Senators and for particular committees that have done a good job in this field. I think it is still in order to point out that, as far as Congress as a whole is concerned, it is still a fact that until the final adoption of the conference report on the trans-Alaska pipeline bill, which was adopted very, very recently, none of the major legislation requested by President Nixon had theretofore been delivered to his desk.

I might just point out that, while it is true that various committees are working on other pieces of legislation, the fact is that Congress as a whole had not delivered on legislation requested having to do with deepwater ports so that supertankers can deliver oil to the eastern coast. It is still a fact that Congress as a whole has not delivered on the electric power siting legislation requested by the President, which is desperately needed to produce more power. And it is still a fact that Congress as a whole—in fact, neither House of Congress—has delivered on the legislation having to do with the regulation of natural gas. It is still a fact that Congress has not delivered on legislation setting up a Department of Energy and Natural Resources.

So I merely make these points to keep the record in some perspective—yes, to give credit where credit is due, and there is a lot of that can be passed out, but beginning in June of 1971 and various messages thereafter, President Nixon has called attention to this problem and has requested specific legislation to be enacted by the Congress, and the fact still is that Congress has delivered precious little in terms of actual enactment of bills.

I want to associate myself with the remarks made by the distinguished Senator from Wyoming (Mr. HANSEN) when he points out that this legislation today does little more than provide a vehicle for allocating the shortages. It does nothing to increase the production of energy resources. And one of the major things that Congress has to turn its attention to is passing those legislative items that are going to produce more oil, are going to produce more coal, are going to produce more electric energy, because only through more production and providing a way of being self-sufficient in the energy field are we as a nation going to have the answer that we really need and must achieve.

Mr. MANSFIELD. Mr. President, I, too, want to put things in perspective, and I thought I did, and I am not speaking for the Senate, and when I say the Senate, I mean the whole Senate.

The distinguished acting minority leader states that in 1971 the President sent his first message. May I say that on July 16, 1970, Senator JENNINGS RANDOLPH introduced legislation, cosponsored by Senators of both parties, to establish a National Commission on Fuels and Energy. This was to be a joint executive-legislative body to make a comprehensive study of the Nation's energy needs and how best to meet them.

May I point out also, once again, that of the seven proposals sent to the Congress by the President, the Senate had passed the Alaska pipeline bill. The Senate has passed the surface mining reclamation bill. The administration does not want legislation on energy research and development. All it wants is money, and it opposes the bill before the Interior and Insular Affairs Committee.

With respect to the Outer Continental Shelf leases in the Santa Barbara Channel, the administration has withdrawn the bill.

The deepwater ports facilities bills, which the distinguished Senator from Michigan has mentioned, are ready, as far as the Senate is concerned, for markup, which will occur after Thanksgiving.

On the deregulation of gas bills—No. 6—hearings have been held beginning in October, and we anticipate they will be ready to be reported out of the Commerce Committee soon.

As far as the bill relating to the establishment of a Department of Energy and Natural Resources is concerned, that is now pending before the Senate Government Operations Committee, and additional hearings will be held after Thanksgiving.

But what the President did not send up, and what the Senate has done, is S. 2589, the emergency bill passed this evening; S. 1570, the allocation bill, now on the Presidents' desk; S. 1586, the strategic petroleum reserves, ready for markup; S. 2176, conservation policy for energy, on the Senate Calendar; S. 2652, the Coal Conversion Act, hearings on which are to be held in December.

I think we have done a pretty good job up here, and again I want to say that, as far as the Senate is concerned, the President will not lack in cooperation in this or any other field, because I think the record of this institution will prove itself on that basis today, and I

have every confidence it will in the future.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 19, 1973, he presented to the President of the United States the enrolled bill (S. 2408) to authorize certain construction at military installations, and for other purposes and the enrolled bill (S. 2681), to authorize appropriations for the U.S. Information Agency.

ADJOURNMENT TO 10 A.M.

Mr. MANSFIELD. Mr. President, if there is no further business to come before the Senate, I move that the Senate stand in adjournment until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 6:39 p.m. the Senate adjourned until tomorrow, Tuesday, November 20, 1973, at 10 a.m.

NOMINATION

Executive nomination received by the Senate November 19, 1973:

UPPER GREAT LAKES REGIONAL COMMISSION

Raymond C. Anderson, of Michigan, to be Federal Cochairman of the Upper Great Lakes Regional Commission, vice Thomas F. Schweigert.

EXTENSIONS OF REMARKS

PUBLIC FINANCING FOR PRESIDENTIAL PRIMARIES

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Monday, November 19, 1973

Mr. SCHWEIKER. Mr. President, last week I joined with my colleague from Minnesota, Mr. MONDALE, in testimony on public financing of Presidential primary elections.

Provisions of our bill, S. 2238, the Presidential Campaign Financing Act, dealing with public financing of Presidential general and primary elections, have been included in a comprehensive public campaign financing amendment we introduced last Tuesday to the debt ceiling bill, H.R. 11104.

Because of the crisis in confidence in our Government today, it is essential for Congress to exercise dramatic leadership in reforming our campaign processes to help recover from the scandals of Watergate and the gross improprieties and violations of law that surrounded financing of the Presidential elections in 1972. The debt ceiling extension bill will be acted upon this month. I can think of no single step that can provide greater assurance to the people of our country that Congress can, and will, provide necessary reform legislation than for us to endorse public financing as an amendment to this bill.

Mr. President, I request unanimous consent that the joint statement of Senator MONDALE and myself that was presented to the Senate Finance Committee be printed in the RECORD.

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

STATEMENT OF SENATORS WALTER F. MONDALE AND RICHARD S. SCHWEIKER

Mr. Chairman: We appreciate the opportunity to appear jointly before this distinguished committee this morning to emphasize the urgency of Congressional action this year on campaign reform and public financing of campaigns.

Elected officials, public commentators, and the American citizenry alike are gravely alarmed by today's on-going crises of confidence in government.

Two important points must remain clear to everyone: (1) First, it was Watergate that brought about this crisis of confidence.

(2) Second, it was the existence of unlimited campaign money that brought about Watergate.

The seemingly endless unravelling of the Watergate affair has testified more eloquently than we ever could to the need for public financing of campaigns. Unless the present system of financing campaigns with large, special-interest, private contributions is ended, it could ruin our democracy. It is no less serious than that.

Public financing of campaigns can cleanse our election process, and restore public trust and confidence in government. There can be no more essential business than this before the Congress. As Lincoln once said: "With public sentiment, nothing can fail. Without it, nothing can succeed."

At the outset, we would like to emphasize again what a great debt all of us who favor public financing owe to the distinguished Chairman of this Committee. It is his leadership, imagination, and farsightedness that has made the $1 check-off plan for financing Presidential general elections a part of our law, and paved the way for the further steps that we bring before you today. Russell Long is in every sense the father of public financing.

This committee has before it Amendment 651, a comprehensive proposal for public financing of Presidential and Congressional campaigns. We are proud to co-sponsor this bipartisan amendment with seven other Senators. It is similar to the provisions of the "Statement of Principles" on campaign financing that has been signed by 40 Senators.

The system of public financing of Presidential primaries which the Joint Amendment would establish is taken largely from the Mondale-Schweiker Presidential Campaign Financing Act (S. 2238). Each candidate who is able to raise $100,000 in contributions of 100 or less would receive matching payments from the Treasury for those contributions, and for additional contributions of tion of $100 or less would receive matching payments from the Treasury for those contributions, and for additional contributions of $100 or less.

Total Treasury matching payments to any candidate in the primaries would be limited to $7 million, and total primary spending per candidate would be limited to $15 million. Only $100 of any individual's contribution or aggregate contributions would be $100 or less.

Total individual contributions to primary candidates would be subject to the $3000 limits in S. 372, the campaign finance reform bill passed by the Senate earlier this year.

To encourage small private contributions to candidates in the primaries (and through parties in general elections), the Joint Amendment doubles the existing tax credit and deduction for political contributions.

Our own bill deals exclusively with Presidential elections. However, the other cosponsors of the Joint Amendment, Senators Cranston, Hart, Kennedy, Mathias, Hugh Scott, Stafford and Stevenson, all have introduced bills dealing with other aspects of public financing, particularly Senate and House races. We are privileged to work together with these Senators, to combine our various bills, and to introduce this comprehensive package for public financing of federal elections.

We urge the Committee to accept this amendment to the Debt Ceiling bill. It is vital that we act now, while the terrible abuses of Watergate are fresh in our minds. The opportunity for fundamental reform comes so rarely and fleetingly that we must seize it quickly, or it is gone.

TRIBUTES TO CONGRESSMAN LESLIE ARENDS

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1973

Mr. MINSHALL of Ohio. Mr. Speaker, all of us in this Chamber were saddened when our dear friend and very distinguished colleague LES ARENDS announced that he will retire at the close of the present Congress.

It is difficult to imagine the House of Representatives without LES ARENDS, and difficult for us Republicans to imagine the loss of LES as minority whip.

The quiet announcement of his plans, made without fanfare or advance notice, brought tears to the eyes of many of us, on both sides of the aisle, and moved the Speaker of the House to say—

That applause would be substituted with tears if we were to express the emotions we feel about his departure.

It is a true measure of the stature of LES ARENDS, as statesman and as a leading partisan leader in the House, that he inspires this affection and this strong regret at his announcement not only among his fellow Republicans but among the leaders of the opposition party.

When LES leaves Capitol Hill, he will have served 40 years as a Member of Congress, three decades of that time as our Republican whip. Few Members have ever captured and held the respect and affection of so many of his colleagues for so long a time. I have served just half as long as LES. When I first came here as a freshman Congressman from Ohio, I quickly learned to turn to the gentleman from Illinois for sound advice and for absolutely selfless help in learning the ropes. I have had the privilege of working with LES on matters of the greatest importance to our Nation's defense, he as a ranking member of the House Committee on Armed Services, I as a member of the Defense Appropriations Subcommittee. I have been impressed and inspired by his indominatable courage