SENATE—*Thursday, December 13, 1973*

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Reverend Dr. C. Leslie Glenn, canon and subdean, the Washington Cathedral, Mount St. Alban, Washington, D.C., offered the following prayer:

O Lord, our Heavenly Father, the high and mighty Ruler of the Universe, who dost from Thy throne behold all the dwellers upon Earth; most heartily we beseech Thee, with Thy favor to behold and bless Thy servant, GERALD, as he begins his duties as Vice President of the United States. Guide the President, the Senate, and Representatives in Congress and all others in authority; and so replenish them with the grace of Thy holy spirit, that they may always incline to Thy will, and walk in Thy way. Endue them plenteously with heavenly gifts; grant them in health and prosperity long to live; and finally, after this life, to attain everlasting joy and felicity; through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, December 12, 1973, be dispensed with.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nomination on the Executive Calendar will be stated.

ENVIRONMENTAL PROTECTION AGENCY

The second assistant legislative clerk read the nomination of Alan G. Kirk II, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

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

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Does the distinguished minority leader wish recognition at this time?

Mr. HUGH SCOTT. Mr. President, I yield back my time.

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Alaska (Mr. GRAVEL) is now recognized for not to exceed 15 minutes.

(The remarks Senator GRAVEL made at this point on the introduction of S. 2806, the Energy Revenue and Development Act of 1973, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

RAIL SERVICES ACT OF 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote by which H.R. 9142, the railroad bill, passed on Tuesday, together with the third reading, the order to send the bill to conference and the naming of the conferees be reconsidered and that the amendment offered by the Senator from Indiana (Mr. HARTKE), inserting new language on page 52, between lines 15 and 16, be stricken, and that the bill as thus amended be considered as having been read a third time and passed, and that as thus passed, a motion to reconsider that vote be considered as having been entered and laid on the table, and that the Senate insist on its amendments, request a conference, and that the same conferees be reappointed.

Mr. GRIFFIN. Mr. President, reserving the right to object, I wonder if the distinguished majority whip would confirm for me that this request has been cleared with the ranking Republican member of the Committee on Commerce (Mr. COTTON) and the Senator from Maryland (Mr. BEALL).

Mr. ROBERT C. BYRD. Yes, I shall be glad to. This amendment was agreed to by the Senate by voice vote when only a few Senators were in the Chamber. I was not in the Chamber. In saying that, I am not implying that the distinguished Senator from Indiana (Mr. HARTKE) planned it that way when he offered the amendment. Senators are often not on the floor, when amendments are agreed to by voice vote. This occurs almost daily here, but it is a bad precedent, in the judgment of many of us, to appropriate on an authorization measure.

This amendment was called to my attention by the distinguished Senator from Alaska (Mr. STEVENS) after the amendment was agreed to. I would not have known to this day, perhaps, if it had not been called to my attention by the Senator.

Thereupon, I went to the Senator from Maryland (Mr. BEALL), the ranking minority member of the committee, yesterday. I also went to the Senator from Indiana (Mr. HARTKE), the manager. Both Senators readily agreed to the unanimous consent request I have made. I did not make the request yesterday, but I thought it was of such importance and significance, it should be cleared first with the leadership from both sides. I cleared it this morning with the distinguished majority leader and the distinguished Republican leader. Upon the suggestion of the able Senator from Pennsylvania (Mr. HUGH SCOTT) I went to see the Senator from New Hampshire (Mr. COTTON), who is the ranking member of the Committee on Commerce. I cleared the request with him in the presence of 13 members of the Committee on Appropriations, including Chairman MCCLELLAN, Mr. YOUNG, Mr. BROOKE, Mr. STEVENS, Mr. BELLMON, and other members on the majority and minority sides.

It is my understanding that Representative MAHON, chairman of the House Appropriations Committee, will vigorously object to this amendment when it reaches conference. I have asked the chief counsel of the Committee on Appropriations to contact the Office of Management and Budget to see if we can get a budget request up here over the weekend if the administration wants this money. The Office of Management and Budget should be willing to send a budget request, and the funds could then be placed in the foreign aid appropriation bill on Monday when Mr. INOUYE brings it to the floor.

Incidentally, as chairman of the Appropriations Subcommittee on Transportation, I would point out that the committee report, which accompanied the supplemental appropriations bill that was acted on by the Senate yesterday, included the following language in anticipation of the enactment of the Rail Services Act:

> The Committee is aware of the urgency for moving ahead as quickly as possible with implementation of S. 2767 "The Rail Services Act of 1973" or other similar authorizing legislation as soon as enacted. It is the Committee's intent, therefore, that funds currently available to the Department of Transportation for surface transportation and the Interstate Commerce Commission be used on a temporary basis to defray the Commission's and the Department's costs associated with the immediate and orderly implementation of the act, including the start-up costs of the Government National Railway Association, as necessary.
>
> The Committee directs the Department and the Commission to apprise the Committee of the funds used for these purposes on a continuing basis, and expects that the temporary reprogrammings will be made in such a way to minimize adverse impact on ongoing program activities.
>
> The Committee directs that the regular supplemental appropriation process be used

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to finance the programs authorized by the act and that these appropriations be used to repay funds temporarily used during the interim.

Mr. GRIFFIN. I thank the Senator. I think the Senate, Congress, and the taxpayers owe the Senator from West Virginia gratitude, because I agree with him. This would be very bad legislative procedure and an unfortunate precedent.

I think that it is especially bad when a step of that kind is taken by amendment on the floor of the Senate which is not adequately understood by the Senate. If the Senate had known what it was doing at the time, it would be a different question.

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

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wish to thank the distinguished Republican whip and I also express appreciation to the Senator from Alaska (Mr. STEVENS), who is not in the Chamber at this time, but for whom I would not have known that the amendment had been inserted in the bill. I also thank Mr. HARTKE and Mr. BEALL for their cooperation and understanding; and may I say that they readily agreed to this procedure and for that I am grateful, and I am sure the Senate is grateful.

ORDER FOR PRINTING H.R. 9142 IN THE RECORD

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the bill (H.R. 9142), to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast region of the United States, and for other purposes as passed on December 11 and as reconsidered and further amended and passed on December 13, be printed in the RECORD.

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

H.R. 9142

Strike out all after the enacting clause and insert:

TITLE I—FORMAL PROVISIONS

SHORT TITLE AND TABLE OF CONTENTS

SEC. 101. (a) SHORT TITLE.—This Act may be cited as the "Rail Services Act of 1973".

(b) TABLE OF CONTENTS.—

TITLE I—FORMAL PROVISIONS

Sec. 101. Short title and table of contents.
Sec. 102. Declaration of policy.
Sec. 103. Definitions.

TITLE II—GOVERNMENT NATIONAL RAILWAY ASSOCIATION

Sec. 201. Formation and structure.
Sec. 202. General powers and duties of the Association.
Sec. 203. Access to information.
Sec. 204. Reports.
Sec. 204A. Consolidation study.
Sec. 205 Rail Emergency Planning Office.
Sec. 206. Final system plan.
Sec. 207. Adoption of final system plan.
Sec. 208. Review by Congress.
Sec. 209. Judicial review.
Sec. 210. Obligations of the Association.
Sec. 211. Loans.
Sec. 212. Records, audit, and examination.
Sec. 213. Emergency assistance pending implementation.
Sec. 214. Authorization for appropriations.
Sec. 215 Maintenance and improvement of plant.

TITLE III—UNITED RAIL CORPORATION

Sec. 301. Formation and structure.
Sec. 302. General powers of the Corporation.
Sec. 303. Valuation and conveyance of rail properties.
Sec. 304. Termination of rail service.

TITLE IV—LOCAL RAIL SERVICES

Sec. 401. Findings and purposes.
Sec. 402. Rail service continuation subsidies.
Sec. 403. Acquisition and maintenance loans.

TITLE V—EQUIPMENT IMPROVEMENT

Sec. 501. Formal provisions.
Sec. 502. Obligation Guarantee Board.
Sec. 503. Guarantee of equipment obligations.
Sec. 504. Issuance of notes or obligations.
Sec. 505. Audit of transactions.
Sec. 506. Default.
Sec. 507. National Rolling Stock Information System.
Sec. 508. Utilization measurement and oversight.
Sec. 509. Prerequisites to establishment.
Sec. 510. Railroad Equipment Authority.
Sec. 511. General powers of the Authority.
Sec. 512. Financing.
Sec. 513. Conversion to private ownership.
Sec. 514. Information system.
Sec. 515. Use of equipment supplied by the Authority.
Sec. 516. Commission review.
Sec. 517. Enforcement.
Sec. 518. Annual report.
Sec. 519. Protective arrangements for employees.

TITLE VI—EMPLOYEE PROTECTION

Sec. 601. Definitions.
Sec. 602. Offers of employment.
Sec. 603. Assignment of work.
Sec. 604. Collective bargaining agreements.
Sec. 605. Employee protection.
Sec. 606. Performance of work.
Sec. 607. Arbitration.
Sec. 608. Acquiring railroads.
Sec. 609. Payment of benefits.
Sec. 610. Work rules study.
Sec. 611. Employee displacement study.

TITLE VII—GENERAL PROVISIONS

Sec. 701. Relationship to other laws.
Sec. 702. Annual evaluation by the Secretary.
Sec. 703. Freight rates for recyclables.
Sec. 704. Separability.

DECLARATION OF POLICY

SEC. 102. (a) FINDINGS.—The Congress finds and declares that—

(1) Essential rail service in the Midwest and Northeast region of the United States is provided by railroads which are today insolvent and attempting to undergo reorganization under the Bankruptcy Act.

(2) This essential rail service is threatened with cessation or significant curtailment because of the inability of the trustees of such railroads to formulate acceptable plans of reorganization. This rail service is operated over rail properties which were acquired for a public use, but which have been permitted to deteriorate and now require extensive rehabilitation and modernization.

(3) The public convenience and necessity require adequate and efficient rail service in this region and throughout the Nation to meet the needs of commerce, the national defense, the environment, and the service requirements of passengers, United States mail, shippers, States and their political subdivisions, and consumers.

(4) Continuation and improvement of essential rail service in this region is also necessary to preserve and maintain adequate national rail services and an efficient nationl rail transportation system.

(5) Rail service and rail transportation offer economic and environmental advantages with respect to land use, air pollution, noise levels, energy efficiency and conservation, resource allocation, safety, and cost per ton-mile of movement to such extent that the preservation and maintenance nationwide of adequate and efficient rail service is in the national interest.

(6) These needs cannot be met without substantial action by the Federal Government.

(b) PURPOSES.—It is therefore declared to be the purpose of Congress in this Act to provide for—

(1) the identification of a rail service system in the Midwest and northeast region which is adequate to meet the needs and service requirements of this region and of the national rail transportation system;

(2) the restructuring of railroads in this region into an economically viable system capable of providing adequate and efficient rail service to the region;

(3) the establishment of the Government National Railway Association, with enumerated powers and responsibilities;

(4) the establishment of the United Rail Corporation, with enumerated powers and responsibilities;

(5) assistance to States and local and regional transportation authorities for continuation of local rail services threatened with cessation;

(6) loan guarantees for railroad equipment acquisitions and incentives for improved utilization of railroad rolling stock; and

(7) necessary Federal financial assistance at the lowest possible cost to the general taxpayer.

DEFINITIONS

SEC. 103. As used in this Act (unless otherwise provided in title V of this Act)—

(1) "Association" means the Government National Railway Association, established under section 201 of this Act.

(2) "Commission" means the Interstate Commerce Commission.

(3) "Corporation" means the United Rail Corporation, established under section 301 of this Act.

(4) "Effective date of the final system plan" means the date of the joint resolution of the Congress approving and setting forth the maximum obligational authority of the Association for purposes of implementing the final system plan or any revised final system plan which has been deemed approved by Congress, in accordance with section 208 of this Act.

(5) "Employee stock ownership plan" means a technique of corporate finance that uses a stock bonus trust or a company stock money purchase pension trust which qualifies under section 401(a) of the Internal Revenue Code of 1954 (26 U.S.C. 401(a)) in connection with the financing of corporate improvements, transfers in the ownership of corporate assets, and other capital requirements of a corporation and which is designed to build beneficial equity ownership of shares in the employer corporation into its employees substantially in proportion to their relative incomes, without requiring any cash outlay, any reduction in pay or other employee benefits, or the surrender of any other rights on the part of such employees.

(6) "Final system plan" means the plan adopted by the Association in accordance with the requirements of section 206 of this Act.

(7) "Includes" should be read as if the phrase "but is not limited to" were also set forth.

(8) "Office" means the Rail Emergency Planning Office, established under section 205 of this Act.

(9) "Profitable railroad" means a railroad which is not a railroad in reorganization. The term does not include the Corporation, the National Railroad Passenger Corporation, or a railroad owned, leased, or controlled by a railroad in reorganization in the region.

(10) "Rail properties" means assets or rights owned, leased, or otherwise controlled by a railroad which are used or useful in rail transportation service.

(11) "Railroad" means a common carrier by railroad as defined in section 1(3) of part I of the Interstate Commerce Act (49 U.S.C. 1(3)). The term includes the Corporation and the National Railroad Passenger Corporation.

(12) "Railroad in reorganization" means a railroad which is subject to a bankruptcy proceeding and which has not been determined by a court to be reorganizable on an income basis within a reasonable time pursuant to section 207(b) of this Act. A "bankruptcy proceeding" includes a proceeding pursuant to section 77 of the Bankruptcy Act (11 U.S.C. 205) or an equity receivership or equivalent proceeding.

(13) "Region" means the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois; the District of Columbia; and those portions of contiguous States in which are located rail properties owned or operated by railroads doing business primarily in the aforementioned jurisdictions (as determined by the Commission by order).

(14) "Secretary" means the Secretary of Transportation, except as otherwise indicated.

(15) "State" means any State or the District of Columbia.

TITLE II—GOVERNMENT NATIONAL RAILWAY ASSOCIATION

FORMATION AND STRUCTURE

SEC. 201. (a) ESTABLISHMENT.—There is established, in accordance with the provisions of this section, an incorporated nonprofit association to be known as the Government National Railway Association.

(b) ADMINISTRATION.—The Association shall be directed by a Board of Directors. The individuals designated, pursuant to subsection (d)(2) of this section, as the Government members of such Board shall be deemed the incorporators of the Association and shall take whatever steps are necessary to establish the Association, including the filing of articles of incorporation.

(c) STATUS.—The Association shall be a government corporation of the District of Columbia subject, to the extent not inconsistent with this title, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–1001 et seq.). Except as otherwise provided, employees of the Association shall not be deemed employees of the Federal Government. The Association shall have succession until dissolved by Act of Congress, shall maintain its principal office in the District of Columbia, and shall be deemed to be a resident of the District of Columbia with respect to venue in any legal proceeding.

(d) BOARD OF DIRECTORS.—The Board of Directors of the Association shall consist of 13 individuals, as follows:

(1) the Chairman, a qualified individual who shall be appointed by the President, by and with the advice and consent of the Senate;

(2) four Government members, who shall be the Secretary, the Chairman of the Commission, the Secretary of the Treasury, and the Administrator of the Environmental Protection Agency, or their duly authorized representatives; and

(3) eight nongovernment members, who shall be appointed by the President, by and with the advice and consent of the Senate, on the following basis—

(A) one to be selected from a list of qualified individuals who are representative of profitable railroads recommended by the Association of American Railroads or its successor;

(B) one to be selected from a list of qualified individuals who are representative of railroad labor recommended by the American Federation of Labor and Congress of Industrial Organizations or its successor;

(C) one to be selected from a list of qualified individuals recommended by the National Governors Conference;

(C) one to be selected from a list of qualified individuals recommended by the National League of Cities and Conference of Mayors;

(E) two to be selected from lists of qualified individuals recommended by shippers and organizations representative of significant shipping interests including small shippers;

(F) one to be selected from lists of qualified individuals recommended by consumer organizations, community organizations, and recognized consumer leaders; and

(G) one to be selected from lists of qualified individuals recommended by financial institutions, the financial community, and recognized financial leaders.

As used in this paragraph, a list of qualified individuals shall consist of no less than three individuals.

Except for the members appointed under paragraphs (1) and (3) (A), (B), (E), and (G), no member of such Board may have any employment or other direct financial relationship with any railroad. A member of such Board who is not otherwise an employee of the Federal Government may receive $300 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(e) TERMS OF OFFICE.—The terms of office of the nongovernment members of the Board of Directors of the Association first taking office shall expire as designated by the President at the time of nomination—two at the end of the second year; two at the end of the fourth year; and four at the end of the sixth year. The term of office of the Chairman of such Board shall be 6 years. Successors to members of such Board shall be appointed in the same manner as the original members and, except in the case of government members, shall have terms of office expiring six years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(f) QUORUM.—Seven members of such Board, including three of the nongovernment members, shall constitute a quorum for the transaction of any function of the Association.

(g) PRESIDENT.—The Board of Directors of the Association, upon the recommendation of the Secretary, shall appoint a qualified individual to serve as the President of the Association at the pleasure of such Board. The President of the Association, subject to the direction of such Board, shall manage and supervise the affairs of the Association.

(h) EXECUTIVE COMMITTEE.—The Board of Directors of the Association shall have an executive committee which shall consist of the Chairman of such Board, the Secretary, and three other members who shall be selected by the members of such Board.

(i) MISCELLANEOUS.—(1) The Association shall have a seal which shall be judicially recognized.

(2) The Administrator of General Services is authorized and directed to furnish the Association with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(3) The Secretary is authorized to transfer to the Association or the Corporation rights in intellectual property which are directly related to the conduct of the functions of the Association or the Corporation, to the extent that the Federal Government has such rights and to the extent that transfer is necessary to carry out the purposes of this Act.

(j) USE OF NAMES.—No person, except the Association, shall hereafter use the words "Government National Railway Association" as a name for any business purpose. No person, except the corporation directed to be established under section 301 of this Act, shall hereafter use the words "United Rail Corportation" as a name for any business purpose. Violations of these provisions may be enjoined by any court of general jurisdiction in an action commenced by the Association or the Corporation. In any such action, the Association or the Corporation may recover any actual damages flowing from such violation, and, in addition, shall be entitled to punitive damages (regardless of the existence or nonexistence of actual damage), not to exceed $100 for each day during which such violation was committed. The district courts of the United States shall have jurisdiction over actions brought under this subsection, without regard to the amount in controversy or the citizenship of the parties.

GENERAL POWERS AND DUTIES OF THE ASSOCIATION

SEC. 202. (a) GENERAL.—To carry out the purposes of this Act, the Association is authorized to—

(1) engage in the preparation and implementation of the final system plan;

(2) issue obligations under section 210 of this Act and make loans under section 211 of this Act;

(3) provide assistance to States and local or regional transportation authorities in accordance with section 403 of this Act;

(4) sue and be sued, complain and defend, in the name of the Association and through its own attorneys; adopt, amend, and repeal bylaws governing the operation of the Association and such rules and regulations as are necessary to carry out the authority granted under this Act; conduct its affairs, carry on operations, and maintain offices;

(5) appoint, fix the compensation, and assign the duties of such attorneys, agents, consultants, and other full-time and part-time employees as it deems necessary or appropriate: *Provided*, That (1) no officer of the Association, including the Chairman, may receive compensation at a rate in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, United States Code; and (2) no individual may hold a position in violation of regulations which the Secretary shall establish to avoid conflicts of interest and to protect the interests of the public;

(6) acquire and hold such real and personal property as it deems necessary or appropriate in the exercise of its responsibilities under this Act, and may dispose of any such property held by it;

(7) consult with the Secretary of the Army and the Chief of Engineers and request the assistance of the Corps of Engineers in supervising or consulting on any construction, reconstruction installation, or other improvements financed by any obligations issued or loans made by the Association. Such improvements may include rights-of-way, bridges, tunnels, grade crossings, signals, and other safety-related equipment, and tracks, and other facilities used or capable of being used in rail transportation service or in ways ancillary to such service. The Secretary of the Army shall direct the Corps of Engineers to cooperate fully with the Association, the Corporation, or any entity designated in accordance with section 206(c)(1)(C) in order to carry out the purposes of this Act;

(8) consult on an ongoing basis with the Chairman of the Federal Trade Commission and the Attorney General to assess the possible anticompetitive effects of various proposals and to negotiate provisions which would, to the greatest extent practicable in accordance with the purposes of this Act and the goal set forth in section 206(a)(5) of this Act alleviate any such anticompetitive effects. For the purposes of carrying out their responsibilities under this paragraph the Chairman of the Federal Trade Commission and the Attorney General shall have the

same access to information as the Secretary, the Office, and the Association have under section 203 of this Act. The Chairman of the Federal Trade Commission and the Attorney General shall prepare reports to be published and transmitted as attachment to the preliminary and final system plans which reports shall set forth their views as to whether each plan contains provisions having potentially anticompetitive effects and whether the goal set forth in section 206(a)(5) has been met. The report shall also set forth proposed amendments, modifications, or deletions to such plans designed to alleviate any anticompetitive provisions found therein or to achieve such goal;

(9) consult with representatives of science, industry, agriculture, labor, environmental protection and consumer organizations, and other groups, as it deems advisable; and

(10) enter into contracts, execute instruments, incur liabilities, and do all things necessary, appropriate, or identical to the proper management of its affairs and the prudent exercise of its responsibilities, including protecting the interests of the United States.

(b) INVESTMENT OF FUNDS.—Uncommitted moneys of the Association shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other investments which are lawful investments for fiduciary, trust, or public funds.

(c) EXEMPTION FROM TAXATION.—The Association, including its franchise, capital reserves, surplus, security holdings, and income shall be exempt from all taxation now or hereafter imposed by the United States, any commonwealth, territory, dependency, or possession thereof, or by any State or political subdivision thereof, except that any real property of the Association shall be subject to taxation to the same extent according to its value as other real property is taxed.

(d) ANNUAL REPORT.—The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on all activities of the Association during the preceding fiscal year. Each such report shall include (1) the Association's statement of specific and detailed objectives for the activities and programs conducted and assisted under this Act; (2) statements of the Association's conclusions as to the effectiveness of such activities and programs in meeting the stated objectives and the purposes of this Act, measured through the end of the preceding fiscal year; (3) recommendations with respect to any changes or additional legislative action deemed necessary or desirable; (4) a statistical compilation of the obligations issued, loans made, and equipment obligations guaranteed under this Act; (5) a summary of outstanding problems confronting the Association, in order of priority; (6) all other information required to be submitted to the Congress pursuant to any other provision of this Act; (7) an evaluation of the current state of rail services in the United States, by regions; and (8) the Association's projections and plans for its activities and programs during the next fiscal year.

(e) BUDGET.—The receipts and disbursements of the Association in the discharge of its functions shall not be included in the totals of the budget of the United States Government, and shall be exempt from any annual expenditure and net lending (budget outlays) limitations imposed on a budget of the United States Government. The Chairman of the Association shall transmit annually to the Congress a budget for program activities and for administrative expenses of the Association. The Chairman shall report annually to the Congress the amount of net lending of the Association, which would be included in the totals of the budgets of the United States Government, if the Association's activities were not excluded from those totals as a result of this section.

(f) ACCOUNTABILITY.—Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by striking out "and" in the last clause thereof and the period at the end thereof and inserting at the end thereof the following: ", (8) the Government National Railway Association.".

ACCESS TO INFORMATION

SEC. 203. Each railroad shall maintain and make available such records, make and submit such reports, and provide such data, materials, or other information as the Secretary, the Office, or the Association shall reasonably require or request which is relevant to any function under this Act. Any officer or employee duly designated by the Secretary, the Director of the Office, or the President of the Association, upon presenting appropriate credentials and a written notice of inspection authority, is authorized to inspect, at reasonable times, records, papers, processes, rolling stock, equipment, or facilities of any such railroad in furtherance of any such function. The Secretary, the Office, and the Association, or any duly authorized officer or employee thereof, may for the purpose of carrying out any such function, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or other order the attendance and testimony of such witnesses and the production of such evidence as is deemed advisable. Subpoenas shall be issued under the signature of the Secretary, the Director of the Office, or the President of the Association and may be served by any duly designated individual. In case of contumacy or refusal to obey such a subpoena or order by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the petition of the Secretary, the Director of the Office, or the President of the Association, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by such court as a contempt of court.

REPORTS

SEC. 204. (a) PREPARATION.—(1) Within 30 days after the date of enactment of this Act, the Secretary shall prepare a comprehensive report containing his conclusions and recommendations with respect to the geographic zones within the region at and between which rail service should be provided and the criteria upon which such conclusions and recommendations are based; and (2) within 300 days after the date of enactment of this Act, the Secretary shall prepare a comprehensive report containing his conclusions with respect to essential rail services within the Nation in the area outside the region, and his recommendations as to the geographic zones at and between which rail service should be provided. The Secretary may use as a basis for the identification of such geographic zones the standard metropolitan statistical areas, groups of such areas, counties, or groups of counties having similar economic characteristics such as mining, manufacturing, or farming.

(b) SUBMISSION.—Upon completion, the Secretary shall submit the reports required by subsection (a) of this section to the Office, the Association, the Governor and public utilities commission of each State studied in the report, local governments, consumer organizations, environmental groups, the public, and the Congress. The Secretary shall further cause a copy of each report to be published in the Federal Register.

(c) TRANSPORTATION POLICY.—Within 180 days after the date of enactment of this Act, the Secretary shall formulate and submit to Congress a national transportation policy. The Secretary shall consider all relevant factors in formulating this national transportation policy, including the need for coordinated development and improvement of all modes of transportation, and recommendations as to the priority which should be assigned to the development and improvement of each such mode.

(d) STUDY OF NATIONALIZED RAIL PASSENGER SERVICE.—Within 360 days after the date of enactment of this Act, the Secretary shall prepare and submit to Congress a comprehensive report on the feasibility and desirability of nationalization of rail passenger service in the United States. The report shall consider the extent and nature of the Federal commitment to rail passenger service, the long-standing lack of commitment of private railroad companies to rail passenger operations, the current financial crisis of intercity and rail mass transit operations, the potential for coordination of the national rail passenger system, including rail mass transit and subway lines, the implications of including other public transportation modes within the nationalized system, the estimated costs, economic, social, and environmental, of nationalization of rail passenger service, the relative efficiency and transportation effectiveness of nationalization, and such other matters as the Secretary deems relevant.

(e) RAIL PASSENGER TRANSPORTATION.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to Congress a comprehensive report on the feasibility and desirability of expanding service by the National Railroad Passenger Corporation. The report shall consider the current and projected shortage of refined petroleum products, curtailment of alternative modes of travel, availability of additional equipment for the provision of rail passenger service (whether domestic or foreign), the economic feasibility of additional service on existing routes and expansion of service to new routes, and such other matters as the Secretary deems relevant. The National Railroad Passenger Corporation shall cooperate fully with the Secretary in the preparation of this report.

CONSOLIDATION STUDY

SEC. 204A. (a) ESTABLISHMENT.—There is established an American Railroad Consolidation Commission.

(b) BOARD.—(1) The Consolidation Commission shall consist of 9 members appointed to serve at the pleasure of the President, 2 representing railroad management, 2 representing railroad labor organizations, and 2 representing appropriate Government departments and agencies, and 3 other qualified individuals.

(2) The President shall designate a Chairman and a Vice Chairman from among the members of the Consolidation Commission. Any vacancy in the membership of the Consolidation Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(3) Five members of the Consolidation Commission shall constitute a quorum, but a lesser number shall constitute a quorum for the purpose of conducting hearings.

(4)(A) A member of the Consolidation Commission who is otherwise an officer or employee of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties of the Consolidation Commission.

(B) A member of the Consolidation Commission from private life shall receive $100 per day when engaged in the actual performance of duties of the Consolidation Commission, and shall receive reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(c) FUNCTIONS—The Consolidation Commission shall—

(1) After investigation and study, formulate a plan for the consolidation of all class I, privately owned, common carriers by railroad, including their railroad subsidiaries and affiliated terminal companies, in the United States, exclusive of Alaska and Hawaii, and excluding lines wholly owned and operated by Canadian National and Canadian Pacific Railways, into one private corporation and to assess and determine the value of such railroads as a whole, the value of each separate component and proper capitalization of the entire system and distribution of securities to its components.

(2) Study of railroad diversification into businesses not traditionally considered part of a railroad operations. The study shall consider, among other things, the contribution of diversification to deterioration in rail passenger service and in the efficient movement of freight, to lack of growth of railroad operations, and to the direct or indirect diversion of railroad revenues, assets and management attention from railroad operations into such other businesses. The study shall set forth and evaluate various measures which may be taken to correct adverse conditions attributable to diversification.

(3) After adoption and authorization of such plan by Act of Congress, take such initial steps as are authorized by such Act, to carry out such plan.

(d) POWERS.—(1) The Consolidation Commission may for the purpose of carrying out this Act—

(A) Appoint and fix the compensation of an Executive Director and such additional staff personnel as he deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title;

(B) Procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals; and

(C) Request and accept from any executive department or agency, or Congressional committee, any information and assistance deemed necessary to carry out its functions under this Act, and each such department and agency is authorized, to the extent permitted by law and within the limits of available funds to furnish information and assistance to the Consolidation Commission.

(2)(A) The Consolidation Commission, or at its direction, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Consolidation Commission or such subcommittee or member may deem advisable. Any member of the Consolidation Commission may administer oaths or affirmations to witnesses appearing before the Consolidation Commission or before such subcommittee or member. Subpoenas may be issued under the signature of the Chairman or Vice Chairman and may be served by any person designated by the Chairman or Vice Chairman.

(B) In the case of contumacy or refusal to obey a subpoena issued under paragraph (1) of this subsection by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such court, upon application made by the Attorney General of the United States, shall have jurisdiction to issue to such person an order requiring such person to appear before the consolidation Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

(e) REPORT.—Not later than 1 year, unless said period is extended by order of the President, the Consolidation Commission shall report to the President and the Congress the plan formulated pursuant to this Act, together with its recommendations for such legislation as is necessary to adopt and carry out such plan.

RAIL EMERGENCY PLANNING OFFICE

SEC. 205. (a) ESTABLISHMENT.—There is established, on the date of enactment of this Act, a new Office in the Commission to be known as the Rail Emergency Planning Office. The Office shall function continuously pursuant to the provisions of this Act, and shall cease to exist 5 years after the date of enactment of this Act. The Office shall be administered by a director.

(b) DIRECTOR.—(1) The Director of the Office shall be appointed by the Chairman of the Commission with the concurrence of 5 members of the Commission and shall take office upon issuance of a resolution endorsing such appointment by both the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate.

(2) The Director of the Office shall administer and be responsible for the discharge of the functions and duties of the Office from the date he takes office unless removed for cause by the Commission.

(3) The Director of the Office shall be compensated at a rate to be set by the Chairman of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, but at a rate not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(c) DUTIES.—The Office shall, with the assistance of the Secretary and the Association—

(1) study and evaluate the Secretary's report on rail services in the region required under section 204(a)(1) of this title and shall solicit, study, and evaluate the views with respect to present and future rail service needs of the region from Governors of States within the region; mayors and chief executives of political subdivisions within such States; shippers; the Secretary of Defense; manufacturers, wholesalers, and retailers within the region; consumers of goods and products shipped by rail; and all other interested persons, The Office is authorized and directed to conduct public hearings to solicit comments on such report and to receive such views;

(2) prepare a detailed—

(A) information survey of existing rail services in the region, including patterns of traffic movement, traffic density over identified lines, pertinent costs and revenues of lines, plant, equipment, facilities (including yards and terminals), and property suitable for rail services in the region;

(B) economic and operational study and analysis of present and future rail service needs in the region, taking into account the reports, views, and comments received under paragraph (1) of this subsection; the nature and volume of the traffic in the region now being moved by rail or likely to be moved by rail in the future; the extent to which available alternative modes of transportation could move such traffic as is now carried by railroads in reorganization; the relative economic, social, and environmental costs that would be involved in the use of such available alternative modes, including energy resource costs; and the competitive or other effects on profitable railroads;

(C) study of methods of achieving economies in the cost of rail system operations in the region including consolidation, pooling, and joint use or operation of lines, facilities, and operating equipment; relocation; rehabilitation and modernization of equipment, track, and other facilities; and abandonment of lines consistent with meeting needs and service requirements; together with an evaluation of the anticipated economic, social, and environmental costs and benefits of each such method;

(D) study of rail passenger services in the region, in terms of scope and quality;

(E) study of the costs and benefits of any change proposed in the Secretary's report required under section 204(a)(1) of this Act or any views or comments received under paragraph (1) of this subsection;

(F) study of the effect on railroad employees of any restructuring of rail services in the region; and

(G) report to be submitted to the Commission and the Association and published in the Federal Register. Such report shall include all the aforementioned material in this subsection together with a preliminary identification on a map of the region the rail services system which in the judgment of the Office would best satisfy present and future rail services needs in the region. Such report shall be submitted within 240 days after the date of establishment of the Office;

(3) solicit, study, and evaluate the views of all government officials and persons who submitted views, reports, or testimony under paragraph (1) of this subsection with respect to the report prepared by the Office under paragraph (2)(G) of this subsection;

(4) prepare and submit to the Commission, the Congress, and the Association its proposal for the preliminary system plan within 300 days after the date of establishment of the Office. Such proposal shall be designed to meet all of the requirements of section 206 of this Act;

(5) prepare and submit to the Committee, the Congress, and the Association its evaluation and critique, together with detailed reasons and recommended alternatives for provisions rejected, of the preliminary system plan within 60 days after its adoption and release by the Association under section 207 (a) of this Act;

(6) make determinations of qualifications for rail service continuation subsidies in accordance with subsection (f) of this section; and

(7) perform such duties as the Board of Directors, the Executive Committee, or the President of the Association shall request.

(d) POWERS.—The Director of the Office is subject to the direction of and shall report to such member of the Commission as the Chairman thereof shall designate. The Chairman may designate himself as that member. Such Director is authorized, with the concurrence of such member or the Chairman (in case of disagreement) of the Commission, to—

(1) appoint, fix the compensation, and assign the duties of employees of the Office without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and to procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code, but at rates not to exceed $250 a day for qualified experts. Each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized and shall give careful consideration to a request to furnish to the Director of the Office, upon written request, on a reimbursable basis or otherwise, such assistance as such Director deems necessary to carry out the functions and duties of the Office. Such

assistance includes transfer of personnel with their consent and without prejudice to their position and rating; and

(2) enter into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions and duties of the Office, with any government or person.

(e) REVIEW OF COMMISSION.—Upon the adoption of the final system plan by the Association under section 207(c) and the submission of such plan to Congress under section 208(a) of this Act, the Commission shall submit to the Congress an evaluation and critique of the final system plan delivered to both Houses of Congress and its recommendation with respect to the acceptance or rejection of such plan. If the Commission recommends that either the House of Representatives or the Senate pass a resolution stating that it does not favor the plan, the Commission shall recommend what changes, if any, should be made in the final system plan and the reasons therefor.

(f) CONTINUATION AND ABANDONMENT.—(1) The Office shall make and maintain a list of its determinations of qualification for rail service continuation subsidies. A copy of such list shall be transmitted to the Secretary and the Governors of the States and shall be published in the Federal Register at least once each year.

(2) Rail properties qualified for rail service continuation subsidies are—

(A) those rail properties of railroads in reorganization which are not included on the final system plan;

(B) those rail properties which have been or are subsequently purchased, leased, or operated by a State agency or with respect to which a State or political subdivision thereof has invested substantial sums for improvement and maintenance of rail service;

(C) those rail properties with respect to which the Commission issues a certificate of abandonment effective on or after the date of enactment of this Act and those rail properties with respect to which the Commission has issued a certificate of abandonment within 5 years prior to the date of enactment of this Act and which remain in condition for rail service; and

(D) those rail properties which the Office shall find to have been constructively abandoned. A finding of constructive abandonment shall be made by the Office, upon the request of a State, if the Office, in its discretion, determines that service over a particular rail property has been permitted by the carrier to deteriorate to the extent that it is no longer adequate to meet the requirements of the public convenience and necessity.

(3) The Office shall assist States and local and regional transportation agencies in making determinations whether to provide rail service continuation subsidies to maintain in operation particular rail properties by making advisory determinations upon request by a State as to whether particular rail properties are suitable for rail service continuation subsidies. Such advisory determinations shall be made on the following basis: Rail properties are suitable if the cost of the required subsidy for such properties per year to the taxpayers is less than the cost of termination of rail service over such properties measured by increased fuel consumption and operational costs for alternative modes of transportation, the cost to the gross national product in terms of reduced output of goods and services, the cost of relocating or assisting through unemployment, retraining, and welfare benefits to individuals and firms adversely affected thereby, and the cost to the environment measured by damage caused by increased pollution.

(g) OTHER STUDIES.—Within 300 days after the effective date of the final system plan, the Office shall, with the assistance of the Secretary and the Association—

(1) study, evaluate, and hold public hearings on the Secretary's report on essential rail services within the Nation, which is required under section 204(a)(2) of this title, and the Secretary's formulation for a national transportation policy, which is required under section 204(c) of this title. The Office shall solicit, study, and evaluate comments, with respect to the content of such documents and the subject matter thereof, from the same categories of persons and governments listed in subsection (c)(1) of this section but without any geographical limitations; and

(2) prepare a detailed information survey and detailed and comprehensive studies with respect to States outside the region covering the same material required to be surveyed and studied with respect to the region under subsection (c)(2) of this section, including a comprehensive report to be submitted to the Commission, the Association, the Secretary, and the Congress and to be published in the Federal Register.

FINAL SYSTEM PLAN

SEC. 206. (a) GOALS.—The final system plan shall be formulated in such a way as to effectuate the following goals:

(1) the creation of a financially self-sustaining rail service system in the region;

(2) the establishment and maintenance of a rail service system adequate to meet the rail transportation needs and service requirements of the region;

(3) the establishment of improved high-speed rail passenger service, as recommended by the Secretary in his report of September 1971, entitled "Recommendations for Northeast Corridor Transportation";

(4) the maximum use of those modes of transportation in the region which require the smallest amount of scarce energy resources and of those modes which can most efficiently transport energy resources, and preservation to the maximum extent practicable of existing railroad trackage in any area in which fossil fuel natural resources are located;

(5) the stimulation of competition in the region in the provision of transportation services;

(6) the achievement in the region of any ambient air quality standard established pursuant to the Clean Air Act, as amended (42 U.S.C. 1857 et seq.);

(7) the movement of passengers and freight in rail transportation in the region in the most efficient manner consistent with safe operation; and

(8) the minimization of job losses and associated increases in unemployment and community benefit costs in areas presently served.

(b) FACTORS.—The final system plan shall be based upon due consideration of all factors relevant to the realization of the goals set forth in subsection (a) of this section. Such factors include the need for and the cost of rehabilitation and modernization of track, equipment, and other facilities; methods of achieving economies in the cost of rail operations in the region; means of achieving rationalization of rail services and the rail service system in the region; marketing studies; the impact on railroad employees; consumer needs; traffic analysis; financial studies; and any other factors identified by the Office under paragraph (2) of section 205(c) of this Act or in the report of the Secretary required under section 204(a)(1) of this Act.

(c) DESIGNATIONS.—The final system plan shall designate—

(1) those rail properties operated by any railroad in reorganization in the region and any railroad leased, operated, or controlled by any railroad in reorganization in the region which—

(A) shall be operated by the Corporation, and shall provide which rail properties are to be transferred to and acquired by the Corporation in accordance with this Act;

(B) shall be offered for sale to a profitable railroad operating in the region and, if purchased, shall be operated by such railroad and, what additions to or changes in the designation of rail properties to be acquired and operated by the Corporation shall be made if that designated profitable railroad fails to purchase such properties;

(C) shall be purchased or leased from the Corporation by the National Railroad Passenger Corporation or a regional transportation authority for improvement to achieve the goal set forth in subsection (a)(3) of this section;

(D) may be purchased or leased from the Corporation by a State or local or regional transportation authority to meet the needs of commuter and intercity rail passenger service; and

(E) if not otherwise required to be operated by the Corporation or any other railroad, are suitable for use for other public purposes, including highways, other forms of transportation, conservation, energy transmission, education or health care facilities or recreation. In carrying out this paragraph, the Association shall solicit the views and recommendations of the Secretary, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and other agencies of the Federal Government and of the State and the political subdivisions thereof within the region, and the general public; and

(2) which rail properties of profitable railroads operating in the region may be offered for sale or lease to the Corporation and which rail properties of profitable railroads operating in the region may be offered for sale or lease to other profitable railroads operating in the region subject to paragraphs (3) and (4) of subsection (d) of this section.

(d) TRANSFERS.—All transfers or conveyances pursuant to the final system plan shall be made in accordance with, and subject to, the following principles:

(1) All rail properties to be transferred to the Corporation by a profitable railroad, by trustees of a railroad in reorganization or by any railroad leased, operated, or controlled by a railroad in reorganization in the region shall be transferred in exchange for value in the form of stock and other securities of the Corporation (including obligations of the Association) and the other benefits accruing to such railroad by reason of such transfer.

(2) All rail properties to be conveyed to a profitable railroad operating in the region by trustees of a railroad in reorganization or by any railroad leased, operated, or controlled by a railroad in reorganization in the region shall be conveyed in exchange for compensation from the profitable railroad.

(3) Notwithstanding any other provision of this Act, no acquisition under this Act shall be made by any profitable railroad operating in the region without a determination with respect to each such transaction and all such transactions cumulatively (A) by the Association, upon adoption and release of the preliminary system plan, that such acquisition or acquisitions will not materially impair the profitability of any other profitable railroad or of the Corporation, and (B) by the Commission, which shall be made within 90 days after adoption and release by the Association of the preliminary system plan, that such acquisition or acquisitions will be in full accord and comply with the provisions and standards of part I, section 5 of the Interstate Commerce Act. The determination by the Association shall not be reviewable in any court. The determination by the Commission shall be reviewable only in the special court. Appeal to the special court shall be taken within 10 days after the Commission makes its determination, and the special court shall complete its review and render its decision within 20 days after such appeal is taken. There

shall be no review of the decision of the special court.

(4) Where the final system plan designates specified rail properties of railroads in reorganization in the region, of railroads leased, operated, or controlled by railroads in reorganization, or of profitable railroads operating in the region which may be offered for sale or lease to a profitable railroad or profitable railroads operating in the region or to the Corporation, such designation or authorization shall terminate 60 days after the effective date of the final system plan unless a binding agreement with respect to such properties has been entered into and concluded by that date. The final system plan shall designate what changes or additions shall be made if contemplated binding agreements are not so entered into and concluded.

(5) All properties sold by the Corporation pursuant to sections 206(c)(1)(C) and 701 (d) of this Act shall be transferred at a value related to the value received for the transfer to the Corporation of such properties.

(e) CORPORATION FEATURES.—The final system plan shall set forth—

(1) pro forma earnings for the Corporation, as reasonably projected and considering the additions or changes in the designation of rail properties to be operated by the Corporation which may be made under subsection (d)(4) of this section;

(2) the capital structure of the Corporation, based on the pro forma earnings of the Corporation as set forth, including such debt capitalization as shall be reasonably deemed to conform to the requirements of the public interest with respect to railroad debt securities, including the adequacy of coverage of fixed charges; and

(3) the manner in which employee stock ownership plans shall, to the extent practicable, be utilized for meeting the capitalization requirements of the Corporation, taking into account (A) the relative cost savings compared to conventional methods of corporate finance; (B) the labor cost savings; (C) the potential for minimizing strikes and producing more harmonious relations between labor organizations and railway management; (D) the projected employee dividend incomes; (E) the impact on quality of service and prices to railway users; and (F) the promotion of the objectives of this Act of creating a financially self-sustaining railway system in the region which also meets the service needs of the region and the Nation.

(f) VALUE.—The final system plan shall designate the value of all rail properties to be transferred under the final system plan and the value of the securities and other benefits to be received for transferring those rail properties to the Corporation in accordance with the final system plan.

(g) OTHER PROVISIONS.—The final system plan may recommend arrangements among various railroads for joint use or operation of rail properties on a shared ownership cooperative, pooled, or condominium-type basis, subject to such terms and conditions as may be specified in the final system plan. The final system plan shall also make such designations as are determined to be necessary in accordance with the provisions of section 402 or 403 of this Act.

(h) OBLIGATIONAL AUTHORITY.—The final system plan shall set forth the amount of obligations of the Association which are necessary to enable it to implement the final system plan.

(i) TERMS AND CONDITIONS OF SECURITIES.—The final system plan may include terms and conditions for any securities to be issued by the Corporation which in the judgment of the Association will minimize any actual or potential debt burden on the Corporation. Such terms and conditions shall not become effective without affirmative approval, with or without modification, by Congress.

ADOPTION OF FINAL SYSTEM PLAN

SEC. 207. (a) PRELIMINARY SYSTEM PLAN.—Within 300 days after the date of enactment of this Act, the Association shall adopt and release a preliminary system plan prepared by it on the basis of reports and other information submitted to it by the Secretary, the Office, the Chairman of the Federal Trade Commission, the Attorney General, and interested persons in accordance with this Act and on the basis of its own investigations, consultations, research, evaluation, and analysis pursuant to this Act. Copies of the preliminary system plan shall be transmitted by the Association to the Secretary, the Office, the Governor and public utility commission of each State in the region, the Congress, each court having jurisdiction over a railroad in reorganization in the region, the special court, interested persons, and a copy shall be published in the Federal Register. The Association shall invite and afford interested persons on opportunity to submit comments on the preliminary system plan to the Association within 60 days after the date of its release. The Secretary, the Office, and the Association are authorized to hold public hearings on the preliminary system plan, in accordance with the provisions of section 553 of title 5, United States Code. In the case of hearings held or comments or recommendations received by the Secretary or the Office on the preliminary system plan, the Secretary and the Director of the Office shall submit to the President of the Association a summary and analysis thereof not later than 60 days after the date of release of such plan.

(b) APPROVAL.—Within 90 days after the adoption and release by the Association of the preliminary system plan pursuant to subsection (a) of this section, each United States district court or other court having jurisdiction over a railroad in reorganization shall decide whether or not such railroad shall be reorganized by means of transferring some of its rail properties to the Corporation pursuant to the provisions of this Act. Because of the strong public interest in the continuance of rail transportation in the region pursuant to a system plan devised under the provision of this Act, each such court shall order that reorganization be proceeded with pursuant to this Act unless it finds (1) that the railroad is reorganizable on an income basis within a reasonable time under section 77 of the Bankruptcy Act (11 U.S.C. 205) and that the public interest would be better served by such a reorganization than by a reorganization under this Act, or (2) that reorganization under this Act is not possible on terms which would be fair and equitable to the estate of the railroad in reorganization. An appeal from an order made under this section may be made only to the special court. Appeal to the special court shall be taken within 10 days following entry of an order pursuant to this subsection, and the special court shall complete its review and render its decision within 20 days after such appeal is taken. There shall be no review of the decision of the special court.

(c) ADOPTION.—Within 420 days after the date of enactment of this Act, the executive committee of the Association shall prepare and submit a final system plan for the approval of the Board of Directors of the Association. A copy of such submission shall be simultaneously presented to the Commission. The submission shall reflect evaluation of all responses and summaries of responses received, testimony at any public hearings, and the results of additional study and review. Within 30 days thereafter, the Board of Directors of the Association shall by a majority vote of all its members approve a final system plan which meets all of the requirements of section 206 of this title.

REVIEW BY CONGRESS

SEC. 208. (a) GENERAL.—The Board of Directors of the Association shall deliver the final system plan adopted by the Association to both Houses of Congress and to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate. The final system plan shall be deemed approved at the end of the first period of 60 calendar days of continuous session of Congress after such date of transmittal unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor the final system plan: Provided, That the Association's obligational authority as set forth in the final system plan adopted by the Association and submitted to Congress shall not become effective until approved (as submitted or as modified) by joint resolution of Congress.

(b) REVISED PLAN.—If either the House or the Senate passes a resolution of disapproval under subsection (a) of this section, the Association, with the cooperation and assistance of the Secretary and the Office, shall prepare, determine, and adopt a revised final system plan. Each such revised plan shall be submitted to Congress for review pursuant to subsection (a) of this section.

(c) COMPUTATION.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

JUDICIAL REVIEW

SEC. 209. (a) GENERAL.—Notwithstanding any other provision of law, the final system plan which is adopted by the Association and which becomes effective after review by the Congress is not subject to review by any court except in accordance with this section. After the final system plan becomes effective under section 208 of this Act, it may be reviewed with respect to matters concerning the value of the rail properties to be conveyed under the plan and the value of the consideration to be received for such properties.

(b) SPECIAL COURT.—Within 180 days after the date of enactment of this Act, the Association shall make application to the judicial panel on multi-district litigation authorized by section 1407 of title 28, United States Code, for the consolidation in a single, three-judge district court of the United States of all judicial proceedings with respect to the final system plan. Within 30 days after such application is received, the panel shall make the consolidation in a district court (cited herein as the "special court") which the panel determines to be convenient to the parties and the one most likely to be able to conduct any proceedings under this section with the least delay and the greatest possible fairness and ability. Such proceedings shall be conducted by the special court which shall be composed of three Federal judges who shall be selected by the panel, except that none of the judges selected may be a judge assigned to a proceeding involving any railroad in reorganization in the region under section 77 of the Bankruptcy Act (11 U.S.C. 205). The special court is authorized to exercise the powers of a district judge in any judicial district with respect to such proceedings and such powers shall include those of a reorganization court. The special court shall have the power to convey rail properties of railroads owned, operated, or controlled by a railroad in reorganization in the region. The panel may issue rules for the conduct of its func-

tions under this subsection. No determination by the panel under this subsection may be reviewed in any court.

(c) DELIVERY OF PLAN TO SPECIAL COURT.—Within 90 days after its effective date, the Association shall deliver a certified copy of the final system plan which has been adopted by the Association and become effective after review by the Congress in accordance with this Act to the special court and shall certify to the special court—

(1) which rail properties of the respective railroads in reorganization in the region and of any railroad leased, operated, or controlled by such railroads in reorganization are to be transferred to the Corporation in accordance with the final system plan;

(2) which rail properties of the respective railroads in reorganization in the region or railroads leased, operated, or controlled by such railroads in reorganization are to be conveyed to profitable railroads, in accordance with the final system plan;

(3) which rail properties of profitable railroads in the region may be offered for sale or lease to the Corporation and which rail properties of profitable railroads in the region may be offered for sale or lease to other profitable railroads;

(4) the amount, terms, and value of the securities of the Corporation (including any obligations of the Association) to be exchanged for those rail properties to be transferred to the Corporation pursuant to the final system plan and as indicated in paragraph (1) of this subsection; and

(5) that the transfer of rail properties in exchange for securities of the Corporation (including any obligations of the Association) and other benefits is fair and equitable and in the public interest in accordance with the standards applicable to the approval of a plan of reorganization or a step in such a plan under section 77 of the Bankruptcy Act (11 U.S.C. 205).

(d) BANKRUPTCY COURTS.—Within 90 days after its effective date, the Association shall deliver a certified copy of the final system plan which has been adopted by the Association and become effective after review by the Congress in accordance with this Act to each district court of the United States or any other court having jurisdiction over a railroad in reorganization in the region and shall certify to each such court—

(1) which rail properties of that railroad in reorganization are to be transferred to the Corporation under the final system plan; and

(2) which rail properties of that railroad in reorganization, if any, are to be conveyed to profitable railroads operating in the region, under the final system plan.

OBLIGATIONS OF THE ASSOCIATION

SEC. 210. (a) GENERAL.—To carry out the provisions of this title and of title III of this Act, the Association is authorized to issue bonds, debentures, trust certificates, securities, or other obligations (herein cited as "obligations") in accordance with this section. Such obligations shall have such maturities and bear such rate or rates of interest as are determined by the Association with the approval of the Secretary of the Treasury. Such obligations shall be redeemable at the option of the Association prior to maturity in the manner stipulated in each such obligation, and may be purchased by the Association in the open market at a price which is reasonable.

(b) MAXIMUM OBLIGATION AUTHORITY.—The aggregate amount of obligations of the Association issued under this section which may be outstanding at any one time shall not exceed the obligational authority affirmatively approved by joint resolution of the Congress.

(c) GUARANTEES.—The Secretary shall guarantee a payment of principal and interest on all obligations issued by the Association in accordance with this Act and which the Association requests be guaranteed.

(d) VALIDITY.—No obligation issued by the Association under this section shall be terminated, canceled, or otherwise revoked, except in accordance with lawful terms and conditions prescribed by the Association. Such an obligation shall be conclusive evidence that it is in compliance with this section, has been approved, and is legal as to principal, interest, and other terms. An obligation of the Association shall be valid and incontestable in the hands of a holder, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

(e) THE SECRETARY OF THE TREASURY—If at any time the moneys available to the Secretary are insufficient to enable him to discharge his responsibilities under subsection (c) of this section, he shall issue notes or other obligations to the Secretary of the Treasury in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such obligations shall bear interest at a rate to be determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury is authorized and directed to purchase any such obligations and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. At any time, the Secretary of the Treasury may sell any such obligations, and all sales, purchases, and redemptions of such obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

(f) AUTHORIZATION FOR APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary such amounts as are necessary to discharge the obligations of the United States arising under this section.

(g) LAWFUL INVESTMENTS.—All obligations issued by the Association shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof. All such obligations issued pursuant to this section shall be exempt securities within the meaning of laws administered by the Securities and Exchange Commission.

LOANS

SEC. 211. (a) GENERAL.—The Association is authorized, in accordance with the provisions of this section and such rules and regulations as it shall prescribe, to make loans to the Corporation, the National Rail Passenger Corporation, a regional transportation authority, and other railroads (including a railroad in reorganization which has been found to be reorganizable under section 77 of the Bankruptcy Act pursuant to section 207(b) of this title) in the region, for purposes of assisting in the implementation of the final system plan or pursuant to section 403 of this Act, and to railroads outside the region which are threatened with insolvency in the absence of such loans. No such loan shall be made by the Association to a railroad unless such loans shall, where applicable, be treated as an expense of administration. The rights referred to in the last sentence of section 77(j) of the Bankruptcy Act (11 U.S.C. 205(j)) shall in no way be affected by this Act. In making loans to profitable railroads the Association shall consider whether the applicant has an employee stock ownership plan and shall give special consideration to profitable railroads who have such a plan.

(b) APPLICATIONS.—Each application for such a loan shall be made in writing to the Association in such form and with such content and other submissions as the Association shall prescribe to protect reasonably the interests of the United States. The Association shall publish a notice of the receipt of each application in the Federal Register and shall afford interested persons an opportunity to comment thereon.

(c) TERMS AND CONDITIONS.—Each loan shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Association deems appropriate. Such loan shall bear interest at a rate not less than the greater of a rate determined by the Secretary of the Treasury taking into consideration (1) the prime rate as determined by the Secretary of the Treasury, or (2) the current average yield on outstanding marketable obligations of the Association with remaining periods of maturity comparable to the average maturities of such loans, plus such additional charge, if any, toward covering costs of the Association as the Association may determine to be consistent with the purposes of this Act.

(d) MODIFICATIONS.—The Association is authorized to approve any modification of any provision of a loan under this section, including the rate of interest, time of payment of interest or principal, security, or any other term or condition, upon a finding by the Association that such modification is equitable and necessary or appropriate to achieve the policy declared in subsection (f) of this section.

(e) PREREQUISITES.—The Association shall make a finding in writing, before making a loan to any applicant under this section, that—

(1) the loan is necessary to carry out the final system plan or to prevent insolvency;

(2) it is satisfied that the business affairs of the applicant will be conducted in a reasonable and prudent manner; and

(3) the applicant has offered such security as the Association deems necessary to protect reasonably the interests of the United States.

(f) POLICY.—It is the intent of Congress that loans made under this section shall be made on terms and conditions which furnish reasonable assurance that the Coropration or the railroads to which such loans are granted will be able to repay them within the time fixed and that the goals of the final system plan are reasonably likely to be achieved.

RECORDS, AUDIT, AND EXAMINATION

SEC. 212. (a) RECORDS.—Each recipient of financial assistance under this title, whether in the form of loans, obligations, or other arrangements, shall keep such records as the Association or the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance and such other records as will facilitate an effective audit.

(b) AUDIT AND EXAMINATION.—The Association, the Secretary, and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after the implementation of the final system plan, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Association, the Secretary, or the Comptroller General may be related or pertinent to the loans, obligations or other arrangements referred to in subsection (a) of this section. The Association or any of its duly authorized representatives shall, until any financial assistance received under this title has been repaid to the Association, have access to any such materials which concern any matter that may bear upon—

(1) the ability of the recipient of such financial assistance to make repayment within the time fixed therefor;

(2) the effectiveness with which the proceeds of such assistance is used; and

(3) the implementation of the final system plan and the realization of the declaration of policy of this Act.

EMERGENCY ASSISTANCE PENDING IMPLEMENTATION

SEC. 213. (a) EMERGENCY ASSISTANCE.—The Secretary is authorized, pending the implementation of the final system plan, to pay to the trustees of railroads in reorganization such sums as are necessary for the continued provision of essential transportation services by such railroads. Such payments shall be made by the Secretary upon such reasonable terms and conditions as the Secretary establishes, except that recipients must agree to maintain and provide service at a level no less than that in effect on September 30, 1973.

(b) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for carrying out this section such sums as are necessary, not to exceed $85,000,000, to remain available until expended.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 214. (a) SECRETARY.—There is authorized to be appropriated to the Secretary for purposes of preparing the reports and exercising other functions to be performed by him under this Act such sums as are necessary, not to exceed $15,350,000, to remain available until expended.

(b) OFFICE.—There are authorized to be appropriated to the Commission for the use of the Office in carrying out its functions under this Act such sums as are necessary, not to exceed $12,500,000, to remain available until expended. The budget for the Office shall be submitted by the Commission directly to the Congress and shall not be subject to review of any kind by any other agency or official of the United States. Moneys appropriated for the Office shall not be withheld by any agency or official of the United States or used by the Commission for any purpose other than the use of the Office. No part of any other moneys appropriated to the Commission shall be withheld by any other agency or official of the United States to offset any moneys appropriated pursuant to this subsection.

(c) ASSOCIATION.—There is authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this title and title III of this Act such sums as are necessary, not to exceed $26,000,000, to remain available until expended.

(d) CONSOLIDATION COMMISSION.—There is authorized to be appropriated such amount, not to exceed $500,000, as is necessary to carry out the provisions of this Act.

MAINTENANCE AND IMPROVEMENT OF PLANT

SEC. 215. Prior to the date upon which rail properties are conveyed to the Corporation under this Act, the Secretary, with the approval of the Association, is authorized to enter into agreements with railroads in reorganization in the region for the acquisition, maintenance, and improvement of railroad facilities and equipment necessary to implement any final system plan. Notwithstanding section 210(b) of this Act, the Association shall issue obligations under section 210(a) of this Act in an amount sufficient to finance such agreements and may require the Corporation to assume any such obligations. However, the Association may not issue obligations under this section in an aggregate amount in excess of $150,000,000. The Secretary may not enter into any agreements under this section until he issues regulations setting forth procedures and guidelines for the administration of this section. The Corporation shall not be required under title III of this Act to compensate any railroad in reorganization for that portion of the value of rail properties transferred to it under this Act which is attributable to the acquisition, maintenance, or improvement of such properties under this section.

TITLE III—UNITED RAIL CORPORATION

FORMATION AND STRUCTURE

SEC. 301. (a) ESTABLISHMENT.—There shall be established within 300 days after the date of enactment of this Act, in accordance with the provisions of this section, a corporation to be known as the United Rail Corporation.

(b) STATUS.—The Corporation shall be a for-profit corporation established under the laws of a State and shall not be an agency or instrumentality of the Federal Government. The Corporation shall be deemed a common carrier by railroad under section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)), shall be subject to the provisions of this Act and, to the extent not inconsistent with such Acts, shall be subject to applicable Sate law. The principal office of the Corporation shall be located in Philadelphia in the Commonwealth of Pennsylvania.

(c) INCORPORATORS.—The members of the executive committee of the Association shall be the incorporators of the Corporation and shall take whatever steps are necessary to establish the Corporation, including the filing of articles of incorporation. The incorporators shall also serve as the board of directors of the Corporation until the stock and other securities of the Corporation are distributed to the estates of the railroads in accordance with section 303(c) of this Act and shall adopt the initial bylaws of the Corporation.

(d) BOARD OF DIRECTORS.—The Board of Directors of the Corporation shall consist of 15 individuals selected in accordance with the articles and bylaws of the Corporation: *Provided,* That so long as a substantial amount, as determined by the Secretary of the Treasury, of the outstanding indebtedness of the Corporation consists of obligations of the Association or other debts owing to or guaranteed by the United States, three of the members of such board shall be the Secretary, the Chairman and the President of the Association and five of the members of such board shall be individuals appointed as such by the President, by and with the advice and consent of the Senate.

(e) COMPENSATION.—So long as a substantial amount, as determined by the Secretary of the Treasury, of the outstanding indebtedness of the Corporation consists of obligations of the Association or other debts owing to or guaranteed by the United States, no director or officer of the Corporation may receive compensation at a rate in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, United States Code.

(f) INITIAL CAPITALIZATION.—For purposes of initial capitalization the Corporation is authorized to issue sufficient stock and other securities to carry out the final system plan.

(g) AUDIT AND EXPENDITURES.—So long as a substantial amount, as determined by the Secretary of the Treasury, of the outstanding indebtedness of the Corporation consists of obligations of the Association or other debts owing to or guaranteed by the United States, the Corporation shall be subject to the provisions of the Government Corporation Control Act for the purposes of a Federal Government audit. Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by inserting at the end thereof the following: ", (9) the United Rail Corporation to the extent provided in the Rail Services Act of 1973.".

(h) ANNUAL REPORT.—The Corporation shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on all activities and accomplishments of the Corporation during the preceding fiscal year.

GENERAL POWERS OF THE CORPORATION

SEC. 302. In addition to the powers conferred upon it under the laws of the State or States in which it is incorporated and the powers of a railroad in any State in which it operates, the Corporation shall have all powers vested in it under this Act including the authority to take all steps necessary to acquire rail properties in accordance with the final system plan; to operate, rehabilitate, and modernize such properties; and to maintain adequate and efficient rail services in the region: *Provided,* That the Corporation shall not engage in nontransportation related activities, so long as a substantial amount, as determined by the Secretary of the Treasury, of the outstanding indebtedness of the Corporation consists of obligations of the Association or other debts owing to or guaranteed by the United States.

VALUATION AND CONVEYANCE OF RAIL PROPERTIES

SEC. 303. (a) DEPOSIT WITH COURT.—Within 10 days after delivery of a certified copy of a final system plan pursuant to section 209(c)—

(1) the Corporation, in exchange for the rail properties of the railroads in reorganization in the region and of railroads leased, operated, or controlled by railroads in reorganization in the region to be transferred to the Corporation, shall deposit with the special court all of the stock and other securities of the Corporation and obligation of the Association designated in the final system plan to be exchanged for such rail properties;

(2) each profitable railroad operating in the region purchasing rail properties from a railroad in reoganization in the region as provided in the final system plan shall deposit with the special court the compensation to be paid for such rail properties.

(b) CONVEYANCE OF RAIL PROPERTIES.—(1) The special court shall, within 10 days after deposit under subsection (a) of this section of the securities of the Corporation, obligations of the Association, and compensation from the profitable railroads operating in the region, order the trustee of trustees of each railroad in reorganization in the region to convey forthwith to the Corporation and the respective profitable railroads operating in the region, all right, title, and interest in the rail properties of such railroad in reorganization and shall itself convey all right, title, and interest in the rail properties of any railroad leased, operated, or controlled by such railroad in reorganization that are to be conveyed to them under the final system plan as certified to such court under section 209(d) of this Act.

(2) All rail properties conveyed to the Corporation and the respective profitable railroads operating in the region under this section shall be conveyed free and clear of any liens or encumbrances, but subject to such leases and agreements as shall have previously burdened such properties or bound the owner or operator thereof in pursuance of an arrangement with any State, regional, or local transportation authority under which financial support from such State, regional, or local transportation authority was being provided at the time of enactment of this Act for the continuance of rail passenger service or any lien or encumbrance of no greater than 5 years' duration which is necessary for the contractual performance by any person of duties related to public health or sanitation. Such conveyances shall not be restrained or enjoined by any court.

(3) Notwithstanding anything to the contrary contained in this Act, if railroad rolling stock is included in the rail properties to be conveyed, such conveyance may only be effected if the profitable railroad operating in the region or the Corporation to whom the conveyance is made assumes all of the obligations under any conditional sale agreement, equipment trust agreement, or lease in respect to such rolling stock and such conveyance is made subject thereto; and the provisions of this Act shall not affect the title and interests of any lessor, equipment trust trustee, or conditional sale vendee or assignee under such conditional sale agreement,

equipment trust agreement or lessor under section 77(j) of the Bankruptcy Act (11 U.S.C. 205(j)).

(c) FINDINGS AND OTHER DISTRIBUTION.—(1) After the rail properties of railroads in reorganization in the region have been conveyed to the Corporation and profitable railroads operating in the region under subsection (b) of this section, the special court, giving due consideration to the findings contained in the final system plan, shall decide whether—

(A) the transfers of rail properties of each railroad in reorganization to the Corporation in exchange for the securities and the other benefits accruing to such railroad in reorganization as a result of such exchange, as provided in the final system plan and this Act, and

(B) the conveyance of rail properties of each railroad in reorganization to a profitable railroad operating in the region in accordance with the final system plan.

are fair and equitable to the estate of each railroad in reorganization in accordance with the standard of fairness and equity applicable to the approval of a plan of reorganization or a step in such a plan under section 77 of the Bankruptcy Act (11 U.S.C. 205).

(2) If the special court finds that the terms of one or more exchanges for securities and other benefits are not fair and equitable to an estate of a railroad in reorganization which has transferred rail properties pursuant to the final system plan, it shall—

(A) enter a judgment reallocating the common stock of the Corporation in a fair and equitable manner if it has not been fairly allocated among the railroads in reorganization transferring rail properties to the Corporation, and

(B) if the lack of fairness and equity cannot be completely cured by a reallocation of the Corporation's common stock, order the Corporation to provide for the transfer to the railroad in reorganization securities of the Corporation or obligations of the Association as designated in the final system plan in such nature and amount as would make the exchange or exchanges fair and equitable to the estate of the railroad in reorganization.

(3) If the special court finds that the terms of one or more conveyances of rail properties of a railroad in reorganization to a profitable railroad operating in the region in accordance with the final system plan is not fair and equitable to an estate of a railroad in reorganization, it shall enter a judgment against such profitable railroad.

(4) Upon making the findings referred to in this subsection, the special court shall order distribution of the securities, obligations, and compensation deposited with it under subsection (b) of this section to the trustee or trustees of each railroad in reorganization in the region who conveyed right, title, and interest in rail properties to the Corporation and the respective profitable railroads under such subsection. Any excess securities, obligations, or compensation shall be returned to the Corporation or any applicable profitable railroad.

(d) APPEAL.—A finding or determination entered pursuant to subsection (c) of this section may be appealed directly to the Supreme Court of the United States in the same manner that an injunction order may be appealed under section 1253 of title 28, United States Code: Provided, That such appeal is exclusive and shall be filed in the Supreme Court not more than 5 days after such finding or determination is entered by the special court. The Supreme Court shall grant the highest priority to the determination of any such appeals.

TERMINATION OF RAIL SERVICE

SEC. 304. (a) DISCONTINUANCE.—Except as provided in subsections (c) and (f) of this section, (1) rail service on rail properties of a railroad in reorganization in the region which conveys to the Corporation or to profitable railroads operating in the region all or substantially all of its rail properties designated for such conveyance in the final system plan, and (2) rail service on rail properties of a profitable railroad in the region which transfers substantially all of its rail properties to the Corporation pursuant to the final system plan may be discontinued to the extent such discontinuance is not precluded by the terms of the leases and agreements referred to in section 303(b)(2) if—

(A) the final system plan does not designate rail service to be operated on such properties; and

(B) not sooner than 30 days following the effective date of the final system plan the trustee or trustees of the applicable railroad in reorganization give notice in writing of intent to discontinue such rail service on a date certain which is not less than 90 days after the date of such notice; and

(C) the notice required by paragraph (B) of this subsection is sent by certified mail to the Governor and State transportation agencies of each State and to the government of each political subdivision of each State in which such rail properties are located and to each shipper who has used such rail service during the previous 12 months.

(b) ABANDONMENT.—(1) Rail properties over which rail service has been discontinued under subsection (a) of this section may not be abandoned sooner than 180 days after the effective date of such discontinuance except as provided in subsections (c) and (f) of this section. Thereafter, except as provided in subsection (c) of this section, such rail properties may be abandoned upon 30 days' notice in writing to all those required to receive notice under paragraph (2) (c) of subsection (a) of this section.

(2) Any rail properties designated in the final system plan as rail properties which are suitable for use for other public purposes may not be sold, leased, exchanged, or otherwise disposed of for a 270-day period beginning on the date of notice of proposed abandonment under this subsection unless they are sold, leased, exchanged, or otherwise disposed of for those designated public purposes.

(c) RELATIONSHIP WITH OTHER LAWS.—Rail service may be discontinued and rail properties may be abandoned under subsections (a) and (b) of this section notwithstanding any provision of the Interstate Commerce Act (49 U.S.C. 1 et seq.) or the constitution or law of any State or the decision of any court or administrative agency of the United States or of any State. No rail service may be discontinued and no rail properties may be abandoned pursuant to this section—

(1) after 2 years from the effective date of the final system plan or more than 2 years after the final payment of any rail service continuation subsidy is received, whichever is later; or

(2) if a shipper, a State, the United States, a local or regional transportation authority, or any responsible person offers—

(A) a rail service continuation subsidy which covers the difference between the revenue attributable to such rail properties and the avoidable costs of providing service on such rail properties plus a reasonable return on the value of such rail properties,

(B) a rail service continuation subsidy which is payable pursuant to a lease or agreement with a State, regional, or local transportation authority under which financial support was being provided at the time of the enactment of this Act for the continuance of rail passenger service, or

(C) to purchase, pursuant to subsection (d) of this section, such rail properties or related facilities for their minimum constitutional value in order to operate rail service over such properties.

If a rail service continuation subsidy is offered, the government or person offering the subsidy shall enter into an operating agreement with the Corporation or any responsible person under which the Corporation or such person will operate rail service over such rail properties and receive the difference between the revenue attributable to such properties and the avoidable costs of providing service on such rail properties and the trustee of any railroad in reorganization shall receive a reasonable rate of return on the value of any rail properties for which a rail service is operated under such subsidy. Within 180 days after the date of enactment of this Act, the Commission shall determine and publish standards for determining the "revenue attributable to the rail properties", the "avoidable costs of providing service" and "a reasonable return on the value" as those phrases are used herein, after a proceeding in accordance with the provisions of section 553 of title 5, United States Code.

(d) PURCHASE.—If an offer to purchase is made under subsection (c)(2)(B) of this section, such offer shall be accompanied by an offer of a rail service continuation subsidy. Such subsidy shall continue until the purchase transaction is completed, unless a railroad assumes operations over such rail properties on its own account pursuant to an order or authorization of the Commission. Whenever a railroad in reorganization in the region or a profitable railroad gives notice of intent to discontinue service pursuant to subsection (a) of this section, such railroad shall, upon the request of anyone apparently qualified to make a purchase offer promptly make available its most recent reports on the physical condition of such property together with such traffic and revenue data as would be required under subpart B of part 1121 of chapter X of title 49 of the Code of Federal Regulations and such other data necessary to ascertain the avoidable costs of providing service over such rail properties.

(e) ABANDONMENT BY CORPORATION.—After the rail system to be operated by the Corporation under the final system plan has been in operation for 2 years, the Commission may authorize the Corporation to abandon any rail properties as to which it determines that rail service over such properties is not required by the public convenience and necessity. The Commission may, at any time after the effective date of the final system plan, authorize additional rail service in the region or authorize the abandonment of rail properties which are not being operated by the Corporation or by any other person. Commission determinations under this subsection shall be made pursuant to applicable provisions of the Interstate Commerce Act (49 U.S.C. 1).

(f) INTERIM ABANDONMENT.—After the date of enactment of this Act, no railroad in reorganization may discontinue or abandon any line of railroad other than in accordance with the provisions of this Act, unless it is authorized to do so by the Association and unless no affected State or local or regional transportation authority opposes such action, notwithstanding any provision of any other Federal law, the constitution or law of any State, or decision or order of, or the pendency of any proceeding before any Federal or State court, agency, or authority.

(g) REPORT ON ABANDONMENTS: PARTIAL MORATORIUM.—The Commission shall submit to the Congress within 90 days after the date of enactment of this Act a comprehensive report on the anticipated effect, including the environmental impact, of abandonments in States outside the region. No carrier subject to part I of the Interstate Commerce Act shall abandon, during a period of 730 days after the date of enactment of this Act, all or any portion of a line of railroad (or operation thereof outside the region), the abandonment of which is opposed by any—

(a) passenger, consignor, or consignee served thereby during the 18 months preceding the date of filing of the abandonment application; or

(b) State, county, or municipality served by that line.

TITLE IV—LOCAL RAIL SERVICES

FINDINGS AND PURPOSES

SEC. 401. (a) FINDINGS.—The Congress finds and declares that—

(1) The Nation is facing an energy shortage of acute proportions in the next decade.

(2) Railroads are the most energy-efficient mode of transportation for the movement of passengers and freight and cause the least amount of pollution.

(3) Abandonment, termination, or substantial reduction of rail service in any locality will adversely affect the Nation's long-term and immediate goals with respect to energy conservation and environmental protection.

(4) Under certain circumstances the cost to the taxpayers of rail service continuation subsidies would be less than the cost of abandonment of rail service in terms of lost jobs, energy shortages, and degradation of the environment.

(b) PURPOSES.—Therefore, it is declared to be the purpose of the Congress to authorize the Secretary to maintain a program of rail service continuation subsidies.

RAIL SERVICE CONTINUATION SUBSIDIES

SEC. 402. (a) GENERAL.—The Secretary shall provide financial assistance to a State in accordance with this section for the purpose of rail service continuation subsidies. For purposes of subsection (b)(1) of this section the Federal share of a rail service continuation subsidy shall be 75 per centum and the State share shall be 25 per centum. For purposes of subsection (b)(2) of this section a State receiving discretionary assistance shall be required to contribute at least 25 per centum of the cost of the program for which the Federal assistance is provided.

(b) ENTITLEMENT.—(1) Each State is entitled to an amount for rail service continuation subsidies from 75 per centum of the sums appropriated each fiscal year for such purpose in the ratio which the total number of miles of rail properties in such State which have qualified under this Act for rail service continuation subsidies bears to the total number of miles of rail properties in all the States which have qualified under this Act for rail service continuation subsidies, as determined on the basis of the lists of determinations transmitted to the Secretary by the Office pursuant to section 205(f) of this Act. The entitlement of any State which is withheld in accordance with this section and any sums not used or committed by a State during the preceding fiscal year shall be reallocated to other States in proportion to the original entitlement to such States. Any amount reallocated to a State during a year shall be deemed part of its entitlement for such year.

(2) The Secretary is authorized to provide discretionary financial assistance to a State, local, or regional transportation authority for the purpose of continuing local rail services, including assistance for the purposes enumerated in section 403 of this title.

(c) ELIGIBILITY.—A State is eligible to receive rail service continuation subsidies pursuant to subsection (b) of this section in any fiscal year if—

(1) the State has established a State plan for rail transportation and local rail services which is administered or coordinated by a designated State agency;

(2) the State agency has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient rail services; employs or will employ, directly or indirectly, sufficient trained and qualified personnel; and maintains or will maintain adequate programs of investigation, research, promotion, and development with provision for public participation;

(3) the State provides satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State; and

(4) the State complies with the regulations of the Secretary issued under this section.

(d) REGULATIONS.—Within 90 days after the date of enactment of this Act, the Secretary shall issue, and may from time to time amend, regulations with respect to basic and discretionary rail service continuation subsidies.

(e) PAYMENT.—The Secretary shall pay to each State an amount equal to its entitlement under subsection (b)(1) of this section. Any amounts which are not expended or committed by a State pursuant to subsection (b) during the ensuing fiscal year shall be returned by such State to the Secretary, who may use such amounts in accordance with subsection (b)(2) of this section.

(f) RECORD, AUDIT, AND EXAMINATION.—(1) Each recipient of financial assistance under this section, whether in the form of grants, subgrants contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after completion of the project or undertaking referred to in paragraph (1) of this subsection, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, contracts, or other arrangements referred to in such paragraph.

(g) WITHHOLDING.—If the Secretary, after reasonable notice and opportunity for a hearing to any State agency, finds that a State is not eligible for rail service continuation subsidies under subsections (c) and (d) of this section, payment to such State shall not be made until there is no longer any failure to comply.

(h) AUTHORIZATION FOR APPROPRIATIONS.—(1) There is authorized to be appropriated to carry out the purposes of this section such sums as are necessary, not to exceed $200,000,000 for each of the first two fiscal years including and following the effective date of the final system plan. Such sums as are appropriated shall remain available until expended.

(2) Three-fourths of the sums appropriated pursuant to the authorization of this subsection shall be reserved for allocation to States under subsection (b)(1) of this section. One-fourth of the sums appropriated pursuant to the authorization of this subsection shall be reserved for distribution by the Secretary under subsection (b)(2) of this section.

(i) DEFINITION.—As used in this section, "rail service continuation subsidies" means subsidies calculated in accordance with the provisions of section 304(c) of this Act to cover costs of operating adequate and efficient rail service, including where necessary improvement and maintenance of tracks and related facilities.

ACQUISITION AND MODERNIZATION LOANS

SEC. 403. (a) ACQUISITION.—If a State which is eligible for assistance under section 402(c) of this title or a local or regional transportation authority has made an offer to purchase any rail properties of a railroad pursuant to section 304(c) of this Act or other lawful authority, the Secretary is authorized to direct the Association to provide loans to such State or local or regional transportation authority not to exceed 75 per centum of the purchase price.

(b) MODERNIZATION.—In addition to such acquisition loans, the Secretary is authorized to direct the Association to provide additional assistance not to exceed 75 per centum of the cost of restoring or repairing such rail properties to such condition as will enable safe and efficient rail transportation operations over such rail properties. Such financial assistance may be in the form of a loan or the guarantee of a loan. The Association shall provide such financial assistance as the Secretary may direct under this section and shall adopt regulations describing its procedures for such assistance. With the approval of the Secretary, a State may expend sums received by it under section 402 of this title for acquisition and modernization pursuant to this section.

TITLE V—EQUIPMENT IMPROVEMENT

FORMAL PROVISIONS

SEC. 501. (a) SHORT TITLE.—This title may be cited as the "Rolling Stock Utilization and Financing Act of 1973".

(b) FINDINGS.—The Congress finds and declares that—

(1) There is at present a shortage of general service railroad freight cars available to producers of goods and manufacturers of products.

(2) This shortage results both from an inadequate number of such cars and from their underutilization.

(3) This shortage of available general service railroad freight cars has caused—

(A) losses to producers of goods and manufacturers of products which have resulted in higher prices to consumers of goods and products;

(B) losses to railroads of revenue, thereby threatening their financial condition.

(c) PURPOSES.—The Congress hereby declares that the purposes of this title are—

(1) to improve the utilization and distribution of rolling stock to meet the needs of commerce, users, shippers, the national defense, and the consuming public;

(2) to assist railroads in acquiring additional rolling stock and equipment or facilities to provide expeditious service to meet the increasing demands of the Nation's economy; and

(3) to assist in achieving full employment by assuring adequate equipment necessary to transport the products of American industry.

(d) DEFINITIONS.—As used in this title—

(1) "Authority" means the Railroad Equipment Authority authorized under section 510 of this title.

(2) "Board" means the Obligation Guarantee Board established under this title.

(3) "Car-pooling company" means a company that furnishes rolling stock to three or more railroads on a shared ownership or pooled basis through user or lease arrangements.

(4) "Directors" means the Board of Directors of the Authority.

(5) "Equipment or facilities" includes data processing and other computer technology;

machines and systems for loading and unloading rolling stock; yards and terminals for originating, modifying, or terminating the movement of rolling stock; and other equipment or facilities, including ferries and related shoreside facilities designed primarily for the transportation of rolling stock by water, which are necessary to improve the utilization of rolling stock or improve the movement of goods and products by rail or express.

(6) "Equipment obligation" means a bond, note, conditional sale agreement, equipment trust certificate, lease obligation, security agreement, or other obligation issued or granted to finance, or refinance rolling stock or equipment or facilities.

(7) "Fund" means the Obligation Guarantee Fund.

(8) "Holder" means, unless otherwise provided, the holder of an equipment obligation. If a bank or trust company is acting as agent or trustee for the holder of the equipment obligation, such bank or trust company shall be regarded as the holder.

(9) "Lease" means a contractual arrangement under which the legal owner furnishes rolling stock or equipment or facilities to a railroad or a car pooling company and such railroad or company receives the benefits, through reduced rentals, of any tax benefits available.

(10) "Lease obligation" means all of the lessee's payment obligations under a lease including rentals, termination payments, and tax indemnification payments.

(11) "Obligor" means the debtor under an equipment obligation. The term includes the original obligor and any successor or assignee of such obligor who is approved by the Board.

(12) "Principal" when used with reference to a lease obligation means all of the payment obligations of the lessee under a lease, including rentals, termination payments, and tax indemnification payments, but does not mean interest.

(13) "Railroad" means a common carrier by railroad or express, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)), and includes, where the Board makes an appropriate finding, a railroad controlled by another railroad within the meaning of section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)(b)). The term does not include the Authority.

(14) "Rolling stock" includes any type of new or rebuilt standard gauge locomotive, caboose, refrigerator car, general service railroad freight car, or express van the use of which is not limited to any specialized purpose by particular equipment, design, or other features. General service railroad freight car includes a boxcar, gondola, open-top or covered hopper car, and flatcar. The Board may designate other types of cars as rolling stock upon a written finding, with reasons therefor, that such designation is consistent with the purposes of this title.

OBLIGATION GUARANTEE BOARD

SEC. 502. (a) BOARD.—There shall be established in the Department of Transportation an independent agency to be known as the Obligation Guarantee Board. The Board shall be composed of 6 members and a chairman. Two of the members shall be the Secretary of Transportation and the Secretary of the Treasury, or their duly authorized representatives, who shall serve ex officio with the same powers as other members of the Board. The President shall, within 90 days of the enactment of this Act, appoint the other members and the chairman of the Board, by and with the advice and consent of the Senate, on the following basis—

(1) three to be selected from lists of qualified individuals recommended by shippers and organizations representative of significant shipping interests including small business users of railroad transportation services;

(2) one to be selected from lists of qualified individuals recommended by consumer organizations, community organizations, and recognized consumer leaders;

(3) one to be selected from lists of qualified individuals recommended by the national organization of the State commissions, referred to in sections 202(b) and 205(f) of the Interstate Commerce Act (49 U.S.C. 202 (b), 205(f)), who shall be a member of a State agency authorized by the law of any State to set rates for transportation by railroad.

As used in this subsection, a list of qualified individuals shall consist of not less than three individuals.

(b) COMPENSATION.—A member of the Board who is not otherwise an employee of the Federal Government may receive $150 per diem when engaged in the actual performance of duties vested in the Board plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(c) TERMS OF OFFICE.—The terms of office of the members first taking office (other than those of the two members who shall serve ex officio) shall expire as designated by the President at the time of nomination, three at the end of the third year, and two at the end of the sixth year. The member appointed by the President, by and with the advice and consent of the Senate, to be chairman of the Board shall serve as chairman until his term of office as a member expires and a successor is duly apopinted. Successors to members of the Board shall be appointed in the same manner as the original members and shall have a term of office expiring 6 years from the date of expiration of the term for which their predecessors were appointed. Any member apopinted to fill a vacancy on the Board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

GUARANTEE OF EQUIPMENT OBLIGATIONS

SEC. 503. (a) GENERAL.—The Board is authorized, in accordance with the provisions of this section, to guarantee and to make commitments to guarantee the payment of interest on and the principal balance of an equipment obligation prior to, on, or after the date of execution or the date of disbursement of such obligation: *Provided*, That no equipment obligation in the form of a lease obligation shall be guaranteed unless and until the Board finds, after notice and an opportunity for comment by interested persons and publication in the Federal Register of this finding and the reasons therefor, that no other reasonable means of equipment financing or refinancing is reasonably available to the applicant, and that approval of the guarantee application will serve the public interest. Each guarantee of an equipment obligation shall be made in accordance with the provisions of this title and such rules as the Board may prescribe to protect reasonably the interests of the United States. Each application for the guarantee of an equipment obligation shall be made in writing to the Board in such form and with such content as the Board prescribes. Such application shall be granted if the Board determines that the proposed, negotiated, or executed equipment obligation is eligible for such guarantee. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Board deems appropriate, consistent with the purposes of this title. Each guarantee and commitment to guarantee shall inure to the benefit of the holder of the equipment obligation to which such guarantee or commitment applies. In no event shall any such holder receive or be entitled to retain payment from said guarantee in a total amount which, together with any other recovery, including a security interest in the rolling stock or equipment or facilities, exceeds the actual loss of such bidder.

(b) FUND.—An Obligation Guarantee Fund shall be established and administered by the Board as a revolving fund to carry out the provisions of sections 503 through 506 of this title. Moneys in the fund shall be deposited in the Treasury of the United States to the credit of such fund or invested in bonds or other obligations of the United States approved by the Secretary of the Treasury.

(c) MAXIMUM PERMISSIBLE GUARANTEE.—Except as otherwise provided, the Board shall not guarantee payment of the principal of an equipment obligation in an amount in excess of 80 per centum of the value of the rolling stock or equipment or facilities which are being financed or refinanced thereby. The Board may guarantee an amount not in excess of 95 per centum of such value upon a finding made in writing by the Board and published with detailed reasons therefor in the Federal Register that an applicant railroad would not otherwise be able in its present financial condition to acquire such equipment or facilities or rolling stock on reasonable terms and conditions and that such acquisition by the applicant railroad is necessary to achieve the purposes of this title. In the case of a lease obligation, the Board may guarantee payment of the entire principal together with the amount necessary to guarantee to the lessor, upon default of such obligation, the cost of tax recapture under sections 47 and 1245 of the Internal Revenue Code of 1954 (26 U.S.C. 37, 1245), upon a finding made in writing by the Board and published with detailed reasons therefor in the Federal Register that the applicant is a railroad which has filed a petition for reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205); that such petition has been approved; and that the judge in such proceeding certifies to the Board that the railroad is making all reasonable efforts to achieve reorganization and that such guarantee is reasonable and necessary. In all cases, the Board shall make a determination of the value of the rolling stock or equipment or facilities which are being financed or refinanced thereby, and such determination of value shall be conclusive and not subject to review in any court.

(d) MODIFICATIONS.—The Board is authorized to approve any modification of any provision of a guarantee or a commitment to guarantee such obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms and conditions upon a finding in writing by the Board that such modification is equitable and not prejudicial to the interests of the United States under this title. Such approval shall not be granted without prior consent by the holder of such obligation.

(e) MAXIMUM OBLIGATIONAL AUTHORITY.—The aggregate unpaid principal amounts of equipment obligations and interest thereon which may be guaranteed by the Board under this title shall not exceed $2,000,000,000 at any one time; and at least 70 per centum of such sum shall guarantee equipment obligations financing or refinancing rolling stock.

(f) RATE OF INTEREST.—Interest (exclusive of premium charges for guarantee and service fees) shall be payable on each equipment guaranteed by the Board. The rate of interest shall not exceed the per centum per annum rate on the unpaid principal of such obligation determined by the Board to be reasonable upon consideration of the range of interest rates currently prevailing in the private market for similar obligations. In the case of lease obligations guaranteed by the Board, such lease obligation shall contain a rental rate on the value of the rolling stock, equipment, or facilities which reflects an effective interest rate not to exceed a per centum per annum rate determined by the Board to be reasonable upon consideration of the range of effective interest rates prevailing in the private market for similar obligations.

(g) NOTICE.—Upon receipt of an application for an equipment obligation guarantee, the Board shall cause a notice of such ap-

plication to be published in the Federal Register and shall invite and afford interested persons an opportunity to submit comments on such application at a proceeding to commence within 21 days after the date of such publication. Notice of such proceedings shall be published in the Federal Register. Such notice shall include—

(1) a statement of the time, place, and nature of the proceeding; and

(2) a description of the subjects and issues involved.

(h) REQUIREMENTS FOR GUARANTEES.—No equipment obligation shall be guaranteed by the Board and no commitment shall be made by it to guarantee any such obligation under this title unless it first makes a finding in writing that—

(1) the equipment obligation (other than a lease obligation) is secured by rolling stock or equipment or facilities to be financed thereby;

(2) payment of the equipment obligation (other than a lease obligation) is required by its terms to be made within 15 years from the date of its execution;

(3) the leasing, financing, or refinancing of the rolling stock or equipment or facilities directly related to improving the utilization of rolling stock is justified by the present and probable future demand for rail services to be rendered by the applicant;

(4) the applicant has given reasonable assurances that any rolling stock in its control and the rolling stock or equipment or facilities to be acquired with the equipment obligation will be economically and efficiently utilized;

(5) the purchase or lease of the rolling stock or equipment or facilities will serve to meet demonstrable needs for rail services and to provide shippers with improved service;

(6) the probable value of such rolling stock or equipment or facilities is sufficient to provide the United States reasonable security and protection in case of default and repossession by the holder of the equipment obligation or in case of possession or purchase by the Board; and

(7) the transaction will result in a net increase in the total load-carrying capacity of the applicant's rolling stock.

(i) CONDITIONS AND GUARANTEES.—No guarantee or commitment to guarantee an equipment obligation shall be extended under this title unless the obligor first agrees in writing that so long as any interest or principal on such obligation is due and payable—

(1) there will be no net decrease in the load-carrying capacity of such obligor's rolling stock;

(2) there will be no increase in discretionary dividend payments over the average amount paid during the 5 years preceding the enactment of this title without prior approval of the Secretary in writing, based on findings, published, with reasons therefor, in the Federal Register, made after public hearings with opportunity for submission of comments by all interested parties, that such increase in dividends will not decrease the ability of the obligor to provide improved car services;

(3) the obligor will not use assets or revenues related to or derived from railroad operations in nonrailroad enterprises without prior approval of the Secretary in writing based on findings, published, with reasons therefor, in the Federal Register, made after public hearings with opportunity for submission of comments by all interested parties, that such use of assets or revenues will not decrease the ability of the obligor to provide improved car service;

(4) the obligor shall take all reasonable and practical steps possible, in accordance with such guidelines as may be established by the Secretary and the Commission, to improve the equitable distribution and efficient and expeditious use of all rolling stock and equipment, including cooperating with the Secretary in programs under sections 507 and 508 of this title.

(j) BREACH OF CONDITIONS.—The Secretary is authorized and directed to commence an action in any district court of the United States in which venue is proper to enjoin any activity found by the Secretary to be in violation of any condition specified in subsection (i) of this section. In addition, any person who knowingly violates or contributes to the violation of any of the conditions specified in such subsection shall be subject to a civil penalty, to be levied by the Secretary, not to exceed $10,000.

(k) LEASE OBLIGATION.—Before guaranteeing any lease obligation under this section the Board shall make a finding in writing that—

(1) the terms of the lease obligation provide that if there is a default by the lessee and payment is demanded from the Board by the lessor pursuant to the guarantee, the Board shall have the right in its discretion—

(A) to demand possession of the leased property from the lessee or the right to purchase the leased property for fair market value: Provided, That in no event shall the Board pay more than an amount equal to the sum of the lease rentals and financial obligations remaining during the term of the lease; or

(B) to permit the lessor to repossess the leased property from the lessee for the purpose of leasing it, in good faith and at not less than its fair rental value based upon fair market value, to new lessees: Provided, That any amounts collected from such new lessees in excess of the amount to which the lessor would have been entitled under the original lease, plus costs, shall be paid by the lessor to the Board for deposit in the fund. If the amount collected from such new lessees is less than the amount to which the lessor would have been entitled under the original lease, plus costs, the Board shall pay the difference to the lessor from the fund; and

(2) the terms of the lease obligation provide that if there is a default by the lessee, any amounts received by the holder of the lease obligation in settlement, including amounts received from the Board pursuant to the guarantee, are income and proceeds from the property subject to such lease and subject to claims of any holder of an equipment obligation to the extent of the lease obligation holder's outstanding obligation to such holder under an equipment obligation.

(l) INVESTIGATION CHARGE.—The Board shall charge and collect from each applicant for the guarantee of an equipment obligation such amounts as it deems reasonable for the investigation of such application, the appraisal of the security for such obligation, or for the issuance of a commitment to guarantee. Such charges shall not aggregate more than one-half of 1 per centum of the principal amount of the equipment obligation with respect to which the guarantee application is made.

(m) PREMIUM CHARGE.—The Board shall set a premium charge of not more than 1 per centum per annum for an equipment obligation guaranteed under this title. Such charges shall be computed on the basis of the principal amount outstanding on the equipment obligation at the time payment is due and shall be paid when the obligation is first guaranteed by the Board, and thereafter annually on the anniversary date of such guarantee.

(n) ADMINISTRATIVE COSTS.—All moneys received by the Board under this title shall be deposited in the fund. An amount which shall not exceed 5 per centum of the total annual premium charges collected under subsection (m) of this section may be used by the Board to pay administrative costs and expenses incurred by it pursuant to this title.

ISSUANCE OF NOTES OR OBLIGATIONS

SEC. 504. (a) AUTHORIZATION.—The Board is authorized to issue notes or other obligations to the Secretary of the Treasury in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Board, with the approval of such Secretary, may prescribe. Such obligations may be issued whenever the moneys in the fund are not sufficient to pay any amount which the Board is required to pay under an agreement under section 503 of this title. Such obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury is authorized and directed to purchase any such obligations and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. At any time, the Secretary of the Treasury may sell any such obligations, and all sales, purchases, and redemptions of such obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States. Funds borrowed under this subsection shall be deposited in the fund and redemptions of any such obligations shall be made by the Board from the fund.

(b) DISPOSITION OF PROPERTY.—Notwithstanding any other provision of law, the Board is authorized to perform any acts which it considers necessary, in its discretion, to complete, recondition, reconstruct, renovate, repair, maintain, manage, operate, charter, lease, rent, sell or otherwise dispose of any property or other interests acquired by the Board under an agreement pursuant to section 503 of this title.

(c) VALIDITY.—No contract or commitment to guarantee an equipment obligation entered into by the Board pursuant to this title shall be terminated, canceled, or otherwise revoked, except in accordance with lawful terms and conditions prescribed by the Board. Such a contract or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a contract or commitment shall be valid and incontestable in the hands of a holder as of the date when the Board entered into such contract or commitment, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

AUDIT OF TRANSACTIONS

SEC. 505. (a) GENERAL.—The financial transactions of the Board shall be audited by the Comptroller General of the United States, in accordance with such rules and regulations as he may prescribe. Representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property pertaining to such transactions by the Board and necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of the Board shall remain in the possession and custody of the Board.

(b) ACCESS TO INFORMATION.—The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any obligor for which the Board has guaranteed an equipment obligation to the extent they

pertain to such obligor's financial transactions and are deemed by the Comptroller General to be necessary to facilitate any audit of the financial transactions of the Board. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of such obligor shall remain in the possession and custody of the obligor.

(c) REPORTS—The Comptroller General shall make a report of each such audit to the Congress. Such report shall contain all comments and information which the Comptroller General deems necessary to inform Congress of the financial operations and condition of the fund and any recommendations which he deems advisable. Such report shall indicate specifically and describe in detail any program, expenditure, or other financial transaction or undertaking observed in the course of such audit which the Comptroller General deems to have been carried on or made without lawful authority. A copy of such report shall be furnished to the President, the Secretary, the Commission, and the Board at the time it is submitted to the Congress.

DEFAULT

SEC. 506. (a) GENERAL.—If there is a default in any payment by the obligor of principal or interest due under an equipment obligation guaranteed under this title, which has continued for 30 days, the holder of such obligation or his agent has the right to demand payment by the Board of the unpaid interest on and the unpaid principal of such obligation. Such payment may be demanded after or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of such default. Within such period as may be specified in the guarantee or related agreements, but not later than 60 days from the date of such demand, the Board shall pay to such holder the unpaid interest on and the unpaid principal of such obligation. However, the Board shall not be required to make any such payment if it finds, prior to the expiration of such period, that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

(b) RIGHTS OF BOARD.—If the Board makes a payment to a holder under subsection (a) of this section, the Board shall have all the rights in any security which it held with respect to its guarantee of such obligations as are conferred upon the Board under any security agreement with the obligor and shall be subrogated to all the rights of such holder under any security agreement between the holder and the obligor. Notwithstanding any other provision of law, the Board is authorized, in its discretion, to complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property by it pursuant to such security agreement. The terms of any such sale or other disposition shall be as approved by the Board.

(c) PAYMENT.—Any amount required to be paid by the Board pursuant to subsection (a) of this section shall be paid in cash.

(d) ACTION AGAINST OBLIGOR.—If there is a default under any contract or commitment to guarantee an equipment obligation, the Board shall take such action against the obligor or any other parties liable thereunder as is, in its discretion, necessary to protect the interests of the United States. Such a suit may be brought in the name of the United States or in the name of the holder. Such holder shall make available to the United States all records and evidence necessary to prosecute any such suit. The Board shall have the right, in its discretion, to accept a conveyance of title to and possession of property from any party liable to it whenever the value of such property is not greater than the unpaid interest on and unpaid principal of the defaulted obligation. If the Board receives, through the sale of property, an amount greater than its costs and the amount paid to the holder under subsection (a) of this section, it shall pay such excess to the obligor.

NATIONAL ROLLING STOCK INFORMATION SYSTEM

SEC. 507. (a) PLAN.—(1) The Secretary shall, not more than 180 days after the date of enactment of this Act, designate a plan or alternative plans to establish a national rolling stock information system which shall be designed to facilitate equitable distribution and expeditious utilization of rolling stock operated within the continental United States and/or owned directly or indirectly by railroads and carpooling companies. Such a system shall be capable of furnishing such information as the Secretary determines to be necessary for the expeditious utilization of rolling stock, including information related to the—

(A) length of time each piece of rolling stock is moving and loaded, moving and unloaded, idled and loaded, and idled and unloaded;

(B) owner, type, size, and capacity, year of manufacture, identifying number, and special features of each piece of rolling stock;

(C) origin and destination of cargo;

(D) railroad in control of rolling stock movement, expected time of interchange, and degree of utilization of each piece of rolling stock by the controlling railroads; and

(E) current status and location of each piece of rolling stock, time such status and location is expected to change, and anticipated future commitments of such rolling stock.

(2) The Secretary shall develop such plan or plans after consultation and discussion with the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the executive officers of major private manufacturers and suppliers of information location and retrieval systems, shippers, railroads, the Commission, and any other Government agency, private organization, or private citizen that presents a useful submission regarding such a system. The Secretary is authorized to pay reasonable expenses, including honoraria, for individuals invited by him to present their submissions in person. The Secretary shall cause such plan or plans to be published in the Federal Register and shall invite interested persons to comment thereon at a public hearing pursuant to section 553 of title 5, United States Code, to be held not less than 90 days after the date of such publication. After such hearing, and not more than 1 year after the date of enactment of this Act, the Secretary shall publish the final plan for a national rolling stock information system. This final plan shall include technical specifications and other details for the equipment required under such plan. Such plan shall include means for coordinating or integrating such system with any existing information systems to the extent the Secretary finds such coordination will contribute in an expeditious, cost effective, and technically feasible manner to the implementation of an effective national system. The Secretary from time to time may cause such plan to be modified or amended, pursuant to section 553 of title 5, United States Code.

(b) IMPLEMENTATION.—Following the publication of the final plan required under subsection (a) of this section, the Secretary shall take all action necessary, including the issuance of rules, regulations, and guidelines, to cause such plan to be implemented within a reasonable time. The Secretary is authorized to contract with and provide technical assistance to individual railroads or groups of railroads working together, including the share of costs and the funding in part of demonstration projects, to assist in the establishment of the national rolling stock information system.

(c) ANTITRUST LAWS INAPPLICABLE.—The antitrust laws of the United States are inapplicable to the extent necessary to carry out the purposes of this section as to any person who contracts with the Secretary or acts in conformity with the final plan under subsection (a) of this section.

(d) CENTER.—The Secretary may establish and maintain or assist in establishing and maintaining a centrally located national rolling stock information center. The Secretary of Defense may assist the Secretary to establish such center. Such center may operate as a depository and dissemination center for all such information as may be provided by the national rolling stock information system. The Secretary may make information gathered in such center available to any person subject to such rules as the Commission might prescribe to insure the confidentiality of certain kinds of competitive information supplied for use in connection with the system.

(e) REPORT.—The Secretary shall report semiannually directly to the Congress, without modification of such report by any other Federal agency, with respect to the progress made in implementing the national system provided for in subsection (a) of this section. Such reports shall include recommendations for such additional funding as may be necessary to make the national system fully effective.

(f) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the Secretary out of money in the Treasury not otherwise appropriated, the sum of $10,000,000 for purposes of this section.

UTILIZATION MEASUREMENT AND OVERSIGHT

SEC. 508. (a) ROLLING STOCK UTILIZATION INDEX.—Not less than 90 days after the date of enactment of this Act, the Secretary shall develop and promulgate an index to measure the degree of utilization of rolling stock. The Secretary shall cause to be compiled data required by such index. At least once each quarter per annum, the Secretary shall publish such index, together with a report setting forth any changes in such utilization and his evaluation of the reasons therefor.

(b) COMMISSION REPORT.—The Commission shall publish a report on utilization of rolling stock 30 days after the publication of each report by the Secretary under subsection (a) of this section. The Commission in its report shall consider and comment upon the latest such report by the Secretary.

(c) ENFORCEMENT.—The Secretary shall, with the assistance of the Attorney General, make full use of existing law to bring about improvements in the utilization of rolling stock. The Secretary shall have such standing as is necessary to bring or intervene in proceedings before Federal regulatory agencies and courts. Attorneys appointed by the Secretary may appear for and represent him in any such case or hearing.

(d) UTILIZATION STUDY.—The Secretary shall prepare a study on the utilization of freight cars and means to improve such utilization including consideration of per diem and other car hire charges, demurrage, car service rules and orders of the Commission and of the railroads, the practice of assigning cars to specific traffic or shippers, payments for use of privately owned cars, and publicly and privately owned carpools. The Secretary shall submit legislative recommendations based upon such study within 2 years after the date of enactment of this Act.

PREREQUISITES TO ESTABLISHMENT

SEC. 509. (a) GENERAL.—The Authority, authorized by section 510 of this title, shall be established only if—

(1) two years or more after the date of enactment of this Act—

(A) the Commission finds, in accordance with section 553 of title 5 of the United States Code, that there is still, as a result of inadequate utilization or inadequacy of supply or both, a continuing shortage of rolling

stock in the Nation. In determining whether there is such a shortage, the Commission may consider, without incorporating in such a finding, the following factors—

(i) whether any category of rolling stock is not available to meet a demand equivalent to the average peak demand for such category of rolling stock in the 4 years prior to the time of such finding;

(ii) any governmental program, regulation, or action affecting demand for or supply of freight cars;

(iii) the extent, duration, and impact of seasonal peaks in demand for rolling stock;

(iv) the local, regional, or national scope of any reported problems of demand or supply related to rolling stock;

(v) the impact of severe weather conditions which disrupt marketing, distribution, or railroad operating factors;

(vi) The ability of shippers to load more cars if available; and

(vii) the extent to which any failures to furnish cars promptly result from factors not subject to railroad control.

The presence of any or all such factors shall not preclude a finding by the Commission that there is a continuing shortage of rolling stock; or

(B) the Secretary finds that there has not been a significant increase in the utilization of rolling stock since the date of enactment of this Act;

(2) six months after an affirmative finding under either subparagraph (A) or (B) of paragraph (1) of this subsection, the Commission or the Secretary finds that efforts to form and operate a not-for-profit nongovernmental corporation, or corporations, to acquire, maintain, and provide a free running national pool of rolling stock have not succeeded or have been inadequate in size, scope, and operation to establish the feasibility of a national pool, or have failed to employ innovative concepts for equitable distribution and expeditious use of rolling stock; and

(3) the Congress, by affirmative concurrent resolution, authorizes the establishment of the Authority.

(b) REPORTS.—Two years after the date of enactment of this Act and on the anniversary date thereof each consecutive year thereafter for 5 years, the Commission and the Secretary shall each transmit to the President and Congress a report on rolling stock which shall include each finding made since the previous such report, if any, pursuant to subsection (a) of this section. If the Authority authorized by section 510 of this title is not established in accordance with the provisions of subsection (a) of this section, such Authority shall nonetheless be established 7 years and 6 months after the date of enactment of this Act if—

(1) in the final reports made by the Commission and the Secretary under this subsection—

(A) the Secretary or the Commission finds that the creation of an authority to acquire, maintain, and provide general service railroad freight cars and other rolling stock; to manage a pool of such rolling stock; and to develop and employ innovative concepts for the equitable distribution and expeditious use of such stock would contribute significantly to improvement of the utilization and distribution of rolling stock; and either

(B) the Commission finds that there is still, as a result of inadequate utilization or inadequacy of supply, or both, a continuing shortage of rolling stock in the Nation; or

(C) the Secretary finds that there has not been a substantial and significant increase in the utilization of railroad rolling stock; and

(2) the Congress, by affirmative concurrent resolution, authorizes the establishment of the Authority.

RAILROAD EQUIPMENT AUTHORITY

SEC. 510. (a) AUTHORIZATION.—There is hereby authorized to be established, in accordance with the provisions of section 509 of this title and of this section, a corporation to be known as the Railroad Equipment Authority. The Board of Directors first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of such Board.

(b) PURPOSES.—The purposes of the Authority are to acquire, maintain, and provide general service railroad freight cars and other rolling stock; to manage a pool of such rolling stock; and to employ innovative concepts for equitable distribution and expeditious use of such stock to meet the needs of the national economy and the national defense.

(c) STATUS.—(1) The Authority shall be a government corporation of the District of Columbia subject, to the extent not inconsistent with this title, to the District of Columbia Business Corporation Act (D.C. Code 29-901 et seq.) and administered by a Board of Directors.

(2) The Authority shall not be subject to the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.) or of any other law with respect to railroads, except that it shall be subject to—

(A) sections 1(10) through 1(17) of the Interstate Commerce Act (49 U.S.C. 1(10)-1(17));

(B) the Railway Labor Act, with respect to the representation of employees of the Authority for purposes of collective bargaining, the handling of disputes between the Authority and its employees, and other dealings with employees; the Railroad Retirement Act; and the Railroad Unemployment Insurance Act;

(C) the Federal Employers Liability Act; and

(D) the same laws and regulations with respect to safety as are applicable to any common carrier under part I of the Interstate Commerce Act.

(d) BOARD OF DIRECTORS.—The Board of Directors of the Authority shall consist of 11 individuals who shall be appointed by the President, by and with the advice and consent of the Senate on the following basis—

(1) three to be selected from a list of qualified individuals recommended by the Association of American Railroads or its successor, one of whom shall be representative respectively of eastern-, western-, and southern-territory railroads;

(2) one to be selected from a list of qualified individuals recommended by the American Federation of Labor and Congress of Industrial Organizations or its successor, who shall be representative of railroad labor;

(3) one to be selected from a list of qualified individuals recommended by the National Academy of Sciences as persons with expert knowledge or experience with data processing and information systems and the application of computer technology to systems management;

(4) four to be selected from lists of qualified individuals recommended by shippers, organizations representative of significant shipping interests including small shippers, consumer organizations, community organizations, and recognized consumer leaders, who shall be representative of consumers of transportation services and consumers of goods and products shipped by railroad;

(5) one to be selected from a list of qualified individuals recommended by the Secretary of Defense; and

(6) to be selected from a list of qualified individuals recommended by the Secretary of Transportation.

As used in this subsection, a list of qualified individuals shall consist of no less than three individuals. The President shall appoint one of the members, by and with the advice and consent of the Senate, to serve as Chairman for a term of 4 years. A member of the Directors who is not otherwise an employee of the Federal Government may receive $150 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(e) TERMS OF OFFICE.—The terms of office of the members first taking office shall expire as designated by the President at the time of nomination—four at the end of the third year; four at the end of the sixth year; and three at the end of the ninth year. Successors to members of the Directors shall be appointed in the same manner as the original members and shall have a term of office expiring nine years from the date of expiration of the term for which their predecessors were appointed. Any member appointed to fill a vacancy in the Directors occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(f) GENERAL.—The Directors shall direct the exercise of all the powers of the Authority. So long as there are four members in office, the Directors are empowered to execute the functions of the Authority. Four of the Directors shall constitute a quorum for the transaction of such functions.

(g) ANTITRUST LAWS INAPPLICABLE.—The antitrust laws of the United States are inapplicable to the extent necessary to carry out the purposes of this title as to any person who contracts with the Authority with respect to the operation or maintenance of rolling stock or the design or implementation of a national rolling stock information system or the use of information from such system.

GENERAL POWERS OF THE AUTHORITY

SEC. 511. To carry out the purposes of this title, the Authority is empowered to—

(a) build, rebuild, purchase, own, lease, control, and manage rolling stock or equipment or facilities;

(b) require or contract for the use of physical facilities, equipment, and devices useful in developing equitable distribution and in maintaining expeditious use of rolling stock;

(c) build, rebuild, operate, maintain, and repair its rolling stock, equipment, and facilities or enter into agreements and contracts for the performance of such work and for the performance of all services and work incidental thereto and consistent with prudent management;

(d) conduct and contract research and development that may lead to new and practical technologies, systems, and methods for the efficient and economical movement, distribution, solicitation, collection, loading and unloading, packaging, and processing of freight shipments involving railroads:

(e) sue and be sued, complain and defend, in its corporate name and through its own attorneys; adopt, alter, and use a corporate seal, which shall be judicially noticed; adopt, amend, and repeal such bylaws, rules, and regulations as may be necessary for the conduct of its affairs; conduct its business, carry on operations, maintain offices, and exercise the powers granted under this title in any State;

(f) purchase, lease, or otherwise acquire, own, hold, improve, use, or deal in and with any property (real, personal, or mixed, tangible or intangible) or interest in property, wherever situated; sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of property and assets; accept gifts or donations of any property or services in aid of any purpose of the Authority;

(g) appoint such attorneys, employees, agents, consultants, and other personnel as it deems necessary; define the duties of such personnel and determine and pay compensation for their services. Except as otherwise specifically provided, such personnel shall

not be subject to laws relating to Federal employees with respect to appointments, promotions, adverse actions, hours of work, rates of compensation, allowances, leave, unemployment compensation, compensation for work-related injuries, and Federal benefits for retirement, life insurance, and health benefits; and

(h) enter into contracts, execute instruments, incur liabilities, and do all things necessary or incidental to the proper management of the affairs and the proper and prudent conduct of the business.

FINANCING

SEC. 512. (a) PER DIEM SURCHARGE.—Each railroad, except a switching and terminal railroad, shall pay to the Authority a per diem surcharge of 50 cents per car-day on each unit of rolling stock for each day that such a railroad incurs a car hire charge for the use of such unit of rolling stock. The Directors shall impose such per diem surcharge not later than 60 days after taking office under section 511 of this title and shall terminate it when it has collected such sum as may be necessary for the purposes of this title but not less than $10,000,000 nor more than $30,000,000. Surcharges are payable on the tenth day of the second month succeeding the month in which the charge accrues. Within 6 months of the termination of such surcharge, the Authority shall refund to any railroad or group of railroads under common management and control any payments made by such railroad or railroads in excess of 10 per centum of the total paid by all railroads.

(b) NEGOTIABLE DEBENTURES.—The Authority shall issue to each railroad a negotiable debenture in the amount of the surcharge paid under subsection (a) of this section. The debenture shall bear and pay interest at a rate to be determined by the Secretary of the Treasury to be the current rate for similar debentures in the open market. The par value of such debentures shall be due and payable December 31 of the thirtieth year after the date of issuance thereof or the first business day thereafter if such date is a Saturday, Sunday, or holiday. Such debentures are debts of the Authority but are subordinate to all other such debts. The United States of America does not guarantee either the par value or the interest on such debentures.

(c) REFUND OF PER DIEM SURCHARGES.—(1) In the event of partial or complete liquidation of the Authority, any assets remaining after the payment of its obligations and expenses shall be distributed pro rata to the railroads, but the amount so distributed shall not exceed in any case the amount paid as per diem surcharges under subsection (a) of this section plus accrued interest, if any. The remainder of such assets shall be paid into the Treasury of the United States and credited to miscellaneous receipts.

(2) In the event of complete liquidation of any railroad subject to this title, the Directors of the Authority may, if and when funds are available, refund to such railroad a sum of not to exceed the amount paid in as per diem surcharges under the provisions of subsection (a) of this section plus accrued interest, if any.

(d) INCURRENCE OF DEBT FOR CAPITAL PURPOSES.—The Authority is empowered to incur debt for capital purposes. Such debt may be incurred in the form of bonds, debentures, equipment trust certificates, conditional sale agreements, or any other form of securities, agreements, or obligations. So long as all the capital stock of the Authority is owned by the United States, the payment of principal and interest on all obligations issued by it is guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. So long as any capital stock is owned by the United States, payment of principal and interest on obligations issued by the Authority may, in the discretion of the Directors, be guaranteed by the United States Such guarantee shall be expressed on the face of the obligation. Guaranteed obligations shall not exceed $1,000,000,000 in principal amount outstanding at any one time. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein and shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as shall be determined by the Directors, with the approval of the Secretary of the Treasury. The Authority may also incur debt not guaranteed by the United States, in addition to that provided for under subsection (b) of this section.

(e) PURCHASE OF OBLIGATIONS BY TREASURY.—The Secretary of the Treasury may elect to purchase the obligations of the Authority guaranteed by the United States in an amount not to exceed $1,000,000,000 in principal amount outstanding at any one time, under such terms, including rates of interest, as he and the Directors may agree, but at a rate or yield no less than the current average yield on outstanding Treasury securities of comparable maturity, as determined by the Secretary of the Treasury.

(f) PUBLIC DEBT TRANSACTION.—For the purpose of any purchase of the obligations of the Authority, and to enable him to carry out his responsibility relating to guarantees made pursuant to this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Authority under this Act. The Secretary of the Treasury may at any time sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations of the Authority acquired by him hereunder. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Authority shall be treated as public debt transactions of the United States.

(g) AUTHORIZATION FOR APPROPRIATIONS.—(1) In order to facilitate the formation and the implementation of the objectives of the Authority, there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, the sum of $10,000,000 to be used to acquire capital stock of the Authority, such sum to continue to be available until expended.

(2) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to pay the principal and interest on notes or obligations issued by him as a consequence of any guarantee made under this section.

(3) In the event of any default on any guaranteed obligation, and payment in accordance with a guarantee by the United States, the Attorney General shall take appropriate action to recover the amount of such payments, with interest, from the Authority or other persons liable therefor.

(h) LAWFUL INVESTMENT AND EXEMPTION FROM REGULATIONS AND RESTRICTIONS.—Securities guaranteed under this section shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof, and shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provided in section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), and section 5(c) of the Act of June 16, 1933 (12 U.S.C. 335), shall not apply to securities guaranteed under this section.

(i) CAPITAL STOCK.—(1) The Authority is authorized to issue and have outstanding capital stock in such amounts and of such classes as it shall determine. At no time shall the aggregate of the shares of the capital stock of the Authority owned by a single railroad or by any person controlling one or more railroads, as defined in section 1(3)(b) of the Interstate Commerce Act (49 U.S.C. 1(3)(b)), directly or indirectly through subsidiaries or affiliated companies, nominees, or any person subject to its direction or control or by any other stockholder, or any syndicate or affiliated group of such stockholders exceed 5 per centum of such shares issued and outstanding.

(2) The requirement of section 45(b) of the District of Columbia Corporation Act (D.C. Code, sec. 29-920 (b)) as to the per centum of stock which a stockholder must hold in order to have the rights of inspection and copying set forth in that subsection shall not be applicable in the case of holders of the stock of the Authority, and they may exercise such rights without regard to the percentage of stock they hold.

(3) Capital stock of the Authority offered and sold to the public shall be offered in compliance with all applicable laws of the United States governing the offering and sale of securities by private corporations.

(j) AUDIT AND EXPENDITURES.—(1) So long as any capital stock of the Authority is owned by the United States, "Railroad Equipment Authority" shall be subject to the provisions of the Government Corporation Control Act (31 U.S.C. 841 et seq.).

(2) Except as otherwise provided pursuant to paragraph (1) of this subsection, the Authority is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements as it deems necessary, upon such terms and conditions and in such manner as it decides. This authorization includes the power to make a final settlement or compromise of all claims and litigation by or against the Authority.

(3) Nothing in this subsection shall be construed to deny the Authority the power to obtain audits of its accounts and reports concerning its financial condition and operations by a firm or firms of certified public accountants. Such audit and reports would be in addition to those required by this subsection.

(4) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by inserting at the end thereof the following: ", and (10) the Railroad Equipment Authority.".

CONVERSION TO PRIVATE OWNERSHIP

SEC. 513. (a) PLAN FOR PUBLIC SALE.—As soon as practicable, a panel composed of the Secretary of Transportation, the Secretary of the Treasury, the Chairman of the Securities and Exchange Commission, the Chairman of the Commission, and the Chairman of the Directors of the Authority shall submit to the President and to the Congress a plan for the public sale of stock in the Authority after finding that a market exists for the sale of such stock and that the purposes of this title will be served thereby. This plan shall include, among other elements, a program which—

(1) will require refinancing, or the establishment of a reserve fund or other method, in order to protect the public interest against defaults on obligations of the Authority guaranteed by the United States; and

(2) will assure that the sale of the stock will result in a wide dispersion in the ownership of the stock.

(b) REQUIREMENTS.—The plan for sale of stock to the public shall specify a program for systematically reducing the amount of obligations of the Authority guaranteed by the United States and shall propose a capital structure for the Authority designed to insure sound financial and operating performance. Unless the Congress disapproves the plan within 6 months following submission of the plan to it, stock shall be sold in accordance with the plan.

(c) NEW BOARD MEMBERS.—Upon the sale of stock to the public, the Directors may be enlarged by the addition of members elected by owners of such stock. In no event, however, shall the Directors have more than 15 members while any capital stock in the Authority is held by the United States. During such period, the rights and privileges of owners of such stock, including determination of the number of directors to be so elected, shall be set forth in the bylaws of the authority.

(d) PROCEEDS OF SALE.—The proceeds from the sale of stock to the public shall be applied to the retirement of the stock held by the United States. *Upon the retirement of all the stock held by the United States,* the terms of office of the Directors appointed under section 510(d) of this title shall terminate as provided by the plan under subsection (a) of this section. Thereafter, all except three of the Directors shall be elected by the owners of the stock. The President shall have authority to appoint such three Directors, by and with the advice and consent of the Senate—

(1) one to be selected from a list of qualified individuals recommended by the American Federation of Labor and Congress of Industrial Organizations;

(2) one to be selected from a list of qualified individuals recommended by the Federal Trade Commission, after consultation with organizations of consumers; and

(3) one to be selected from a list of qualified individuals recommended by the Commission, after consultation with organizations of shippers.

As used in this subsection, a list of qualified individuals shall consist of no less than three individuals.

(e) POSITION OF UNITED STATES.— Upon the retirement of all the stock held by the United States—

(1) The Authority shall pay an annual fee to the United States equal to the difference between the amount of interest actually paid upon outstanding guaranteed obligations and the amount which would have been paid, as determined by the Secretary of the Treasury, if such obligations had not been guaranteed by the United States, plus one-fourth per centum;

(2) The Authority shall make every effort to refinance obligations in order to terminate the liability of the United States arising from its guarantee of obligations; and

(3) The Secretary of the Treasury may no longer purchase or guarantee the notes or other obligations of the Authority.

(f) DEFAULT.—If the Authority defaults in the payment of obligations guaranteed by the United States, the United States is authorized to take control and appoint a new Board of Directors pursuant to section 510(d) of this title.

INFORMATION SYSTEM

SEC. 514. (a) ESTABLISHMENT.—If a national rolling stock information system, as defined in section 507 of this title, is not operating effectively when the Authority is established, it shall establish such a system. If the Authority undertakes to establish such a system, the Secretary shall grant it access to and authority to use all information, studies, designs, equipment, facilities, computer programs, and other things acquired or developed under section 507 of this title. The Secretary shall give the Authority all possible assistance to further the purposes of this section.

(d) INFORMATIONAL ACCESS.—Data and other information derived from the national rolling stock information system shall be made available on an equal basis to the Authority, shippers, railroads, the Commission, the Secretary, and interested members of the public, subject to rules to be issued by the Commission to preserve the confidentiality of certain types of competitive information furnished for use in connection with the system.

(c) REPORT.—The Authority shall report to the Congress annually on the progress made in implementing such national system. Each report shall include recommendations as to any additional funding deemed necessary to make the national system more effective. The Commission shall publish a report on such system 30 days after the publication of each report by the Authority under this subsection.

USE OF EQUIPMENT SUPPLIED BY THE AUTHORITY

SEC. 515. (a) USER CHARGES.—The Authority shall establish and maintain a schedule of charges for the use of general service railroad freight cars and other rolling stock, and equipment directly related to the utilization of rolling stock. The rates shall be such as will, in the judgment of the Directors, enable the Authority to meet its operating and administrative expenses, including depreciation and carrying-charges for indebtedness, and to provide sufficient earnings to facilitate conversion to private ownership under section 513 of this title as soon as possible. Such charges shall in no case exceed 150 per centum of the cost to the Authority of acquiring, owning, maintaining, and operating the rolling stock of equipment being so used. In establishing such charges, the Authority shall consider prevailing rates and conditions for similar equipment.

(b) USER CHARGES PRECLUDED.—The Authority shall not assess any charges for rolling stock located on a railroad where that rolling stock is not required by such railroad for use in originating traffic: *Provided,* That—

(1) such rolling stock is not the subject of a car service order by the Authority or the Commission; and

(2) such railroad furnishes appropriate notice to the Authority pursuant to terms and conditions established by it regarding the use of such rolling stock.

(c) CONDITIONS ON USE.—The Authority shall establish—

(1) reasonable rates of compensation for storage of excess rolling stock on the property of any railroad, through negotiation with such railroad;

(2) terms and conditions governing the use of its equipment, including requirements for identification of rolling stock, as are in its judgment appropriate to effectuate the purposes of this title. Such terms and conditions may be modified and amended from time to time; and

(3) just and reasonable car service rules, regulations, and practices, and car distribution directions with respect to its rolling stock. Such rules, regulations, and practices shall be established after consulting with the Commission, railroads and car distribution agencies. They shall, together with car distribution directions issued thereunder, take precedence over any rules, regulations, or practices in conflict therewith which are issued or applied by any railroad or group of railroads. Such rules, regulations, and practices may be modified and amended from time to time.

(d) COMPLIANCE WITH CONDITIONS.—Each railroad shall comply with such car service rules, regulations, and practices as may be established, together with such car distribution directions as may be issued, pursuant to this section.

(e) INTERCHANGE OF CARS.—No railroad may refuse to transport any rolling stock owned, leased, controlled, or managed by the Authority, whether loaded or empty, subject to any applicable safety regulations, reasonable interchange rules, reasonable line clearances, reasonable weight limitations, and user charges set under this section. No railroad shall be entitled to any compensation from the Authority for moving empty rolling stock owned, leased, controlled, or managed by the Authority which is moving under a car distribution directive issued by the Commission or by the Authority for the purposes of distributing such rolling stock for loading.

COMMISSION REVIEW

SEC. 516. The Authority shall be subject to sections 1(10) through 1(17) of the Interstate Commerce Act (49 U.S.C. 1(10)–1(17)), and the orders of the Commission thereunder to the extent applicable. Upon petition of any person affected by any charge, rule, regulation, practice, term, condition, directive, or other provision issued or maintained by the Authority, or upon its own motion, the Commission shall make an investigation and shall order any such provision which it finds not to be in conformity with this title, or to be inconsistent with any applicable rule, order, or directive of the Commission issued pursuant to such sections, to be canceled, annulled, amended, or suspended as the Commission shall find to be appropriate.

ENFORCEMENT

SEC. 517. (a) GENERAL.—In an appropriate civil action, the Authority may apply to any district court of the United States which has jurisdiction over the parties and in which venue is properly laid under section 1291 of title 28, United States Code, for an order or judgment to enforce compliance with any obligation owing to it under or in accordance with any provision of this title or under or in accordance with any agreement or regulation entered into or issued pursuant to this title. Nothing contained in this section shall be construed to relieve any person from any punishment, liability, or sanction which may be imposed otherwise than under this title.

(b) EQUITABLE RELIEF.—(1) If the Authority, any railroad, or any person fails or neglects to comply with any rule, regulation, or practice established under this title, fails to pay any charge imposed under this title, fails or refuses to comply with any car distribution directive or other order issued under this title, or fails to obey any directive by the Commission to pay charges, any district court of the United States having jurisdiction over the parties and in which venue is properly laid under section 1291 of title 28, United States Code, may grant relief. Upon a petition by the Commission or by the Authority, such court shall have jurisdiction to grant such relief as may be necessary or appropriate to prevent or terminate such failure or refusal.

(2) If the Authority, any railroad, or any other person violates or threatens to violate any provision of this title or any rule, regulation, or order issued under this title, any district court of the United States having jurisdiction over the parties and in which venue is properly laid under section 1291 of title 28, United States Code, may grant relief. Upon a petition in such a case, or, in the case of a labor agreement, upon the petition

of any employee affected thereby or a duly authorized representative of such employee, such court shall have jurisdiction to grant such equitable relief as may be necessary or appropriate to prevent or terminate such violation.

ANNUAL REPORT

SEC. 518. The Authority shall cause to be prepared and transmit simultaneously to the President and the Congress an annual report commencing 1 year after its establishment. Such report shall include—

(a) a comprehensive and detailed review, analysis, and evaluation of its operations, activities, accomplishments, and outstanding problems, together with its objectives and plans for the future;

(b) an account of the state of railroad freight service in the United States, including the number of rolling stock, by classes, acquired and owned, leased, controlled, or managed by it and the number acquired and owned, leased, controlled, or managed by the railroads; and

(c) a statement of its receipts and expenditures for the previous year, its methods for determining the type and amount of rolling stock acquired, and the criteria used by it in distributing rolling stock.

The Commission and the Secretary shall from time to time, but not less than once every 2 years, investigate and evaluate the performance of the Authority in light of the purposes of this title and each shall cause to be prepared and transmit, simultaneously to the President and the Congress, a report thereon.

PROTECTIVE ARRANGEMENTS FOR EMPLOYEES

SEC. 519. (a) GENERAL.—In carrying out their functions under this Act and as a condition precedent to the execution of any contract, the guarantee of any obligation, and the approval or inducement of any other action under this Act, the Board, the Secretary, and the Authority shall take adequate steps to protect the interests of affected employees. Each contract as to which any railroad or car-pooling company is either a party or a beneficiary shall include fair and equitable arrangements, as certified by the Secretary of Labor, to protect the interests of individual railroad employees who are or who may be affected in their employment by such contract. Such protective arrangements shall include the arrangements specified in section 405 of the Rail Passenger Service Act of 1970 (45 U.S.C. 565); section 13 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1609); and section 6 of the High Speed Ground Transportation Act of 1965 (49 U.S.C. 1636).

(b) BUILDING AND REBUILDING CONTRACTS OF CORPORATION.—The Authority, in awarding contracts for the building or rebuilding of rolling stock under this title, shall conform to prevailing practices in the railroad industry at the time of each such contract in dividing such work between railroads with facilities for building and rebuilding rolling stock and nonrailroads with such facilities. Such contracts as are awarded to railroads shall be performed through the use of the facilities and the employees of such railroads and shall not be subcontracted. In awarding such contracts, the Authority shall be guided by the relative proportions of such building and rebuilding as was performed in railroad as opposed to nonrailroad facilities during the 5-calendar-year period preceding the award of such contract. Variations from these proportions shall not exceed 5 per centum if the total amount of building and rebuilding declines from levels at the date of enactment of this Act. If the Authority fails to maintain required relative proportions in distributing such work to railroad facilities under such contracts, the fair and equitable employee protective arrangements required by subsection (a) hereof shall become effective. Notwithstanding the foregoing, no contract shall be awarded by the Authority for the building or rebuilding of rolling stock unless the work to be performed is reasonably expected to meet or exceed the minimum specifications established by it in accordance with the purposes of this title.

(c) JOB TRAINING.—Railroad employees adversely affected by any action taken pursuant to this title designed to provide for more effective use and distribution of rolling stock shall be reassigned and if necessary retrained to perform the new tasks covering the functions which they had performed prior to such action. The performance of such functions shall be considered to be within the same craft or class as that in which such railroad employees were classified prior to such change and the rights of such employees to the same representation shall be preserved. A railroad employment position which is affected by any such change may be eliminated as it becomes vacant through the death or voluntary resignation or retirement of the employee holding such position.

(d) OTHER LAWS.—In his administration of the provisions of this title, the Secretary of Labor shall consolidate the program authorized herein with the companion programs under the Rail Passenger Service Act of 1970 (45 U.S.C. 565); the Urban Mass Transportation Act of 1964 (49 U.S.C. 1609); and the High Speed Ground Transportation Act of 1965 (49 U.S.C. 1636). The Secretary of Labor shall uniformly develop, interpret, and apply the procedures and standards under these several laws.

(e) REPAIR AND MAINTENANCE CONTRACTS.—To the extent practicable, the Authority shall award contracts for the repair and maintenance of its rolling stock to railroads with facilities for performing such work.

(f) CONSTRUCTION CONTRACTS.—In the exercise of their respective authority under this title, the Board, the Secretary, and the Authority shall take all steps necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under any contract or agreement entered into under this title shall be paid wages at rates no less than those prevailing on similar construction in the same locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Board, the Secretary, or the Authority shall not enter into any such contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Wage rates provided for in collective-bargaining agreements negotiated under and pursuant to the Railway Labor Act or the National Labor Relations Act shall be considered to be in compliance with the Davis-Bacon Act; the highest of such wage rates shall be the applicable standard for all laborers and mechanics not covered by any such agreement and employed by contractors and subcontractors engaged in the building of rolling stock under contracts awarded by the authority under this title.

TITLE VI—EMPLOYEE PROTECTION

DEFINITIONS

SEC. 601. As used in this title—

(1) "Acquiring railroad" means a railroad, except the Corporation, which seeks to acquire or has acquired, pursuant to the provisions of this Act, all or a part of the rail properties of one or more of the railroads in reorganization, the Corporation, or a profitable railroad.

(2) "Employee of a railroad in reorganization" means a person who, on the effective date of a conveyance of rail properties of a railroad in reorganization to the Corporation or to an acquiring railroad, has an employment relationship with either said railroad in reorganization or any carrier (as defined in parts I and II of the Interstate Commerce Act) which is leased, controlled, or operated by the railroad in reorganization except a president, vice president, treasurer, secretary, comptroller, and any other person who performs functions corresponding to those performed by the foregoing officers.

(3) "Protected employee" means any employee of an acquiring railroad adversely affected by a transaction and any employee of a railroad in reorganization who on the effective date of this Act have not reached age sixty-five.

(4) "Class or craft of employees" means a group of employees, recognized and treated as a unit for purposes of collective bargaining, which is represented by a labor organization that has been duly authorized or recognized pursuant to the Railway Labor Act as its representatives for purposes of collective bargaining.

(5) "Representative of a class or craft of employees" means a labor organization which has been duly authorized or recognized as the collective bargaining representative of a class or craft of employees pursuant to the Railway Labor Act.

(6) "Deprived of employment" means the inability of a protected employee to obtain a position by the normal exercise of his seniority rights with the Corporation after properly electing to accept employment therewith or, the subsequent loss of a position and inability, by the normal exercise of his seniority rights under the applicable collective bargaining agreements, to obtain another position with the Corporation: *Provided, however,* That provisions in existing collective bargaining agreements of a railroad in reorganization, which do not require a protected employee, in the normal exercise of seniority rights, to make a change in residence, in order to maintain his protection, will be preserved and will also be extended and be applicable to all other protected employees of that same craft or class. It shall not, however, include any deprivation of employment by reason of death, retirement, resignation, dismissal or disciplinary suspension for cause, failure to work due to illness or disability, nor any severance of employment covered by subsections (d) and (e) of section 605 of this title.

(7) "Employee adversely affected with respect to his compensation" means a protected employee who suffers a reduction in compensation.

(8) "Transaction" means actions taken pursuant to the provisions of this Act, other than title V of this Act, or the results thereof.

(9) "Change in residence" means transfer to a work location which is located either (1) outside a radius of thirty miles of the employee's former work location and farther from his residence than was his former work location or (2) more than 30 normal highway route miles from the employee's residence and also farther from his residence than was his former work location.

OFFERS OF EMPLOYMENT

SEC. 602. (a) APPLICABLE LAW.—The Corporation and, where applicable, the Association shall be subject to the provisions of the Railway Labor Act and shall be considered employers for purposes of the Railroad Retirement Act, Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act. The Corporation, in addition, shall, ex-

cept as otherwise specifically provided by this Act, be subject to all Federal and State laws and regulations applicable to carriers by railroad.

(b) MANDATORY OFFER.—The Corporation shall offer employment, to be effective as of the date of a conveyance or discontinuance of service under the provisions of this Act, to each employee of a railroad in reorganization who has not already accepted an offer of employment by the Association, where applicable, or an acquiring railroad. Such offers of employment to employees represented by labor organization will be confined to their same craft or class. The Corporation shall apply to said employees the protective provisions of this title.

(c) ASSOCIATION.—After the transfer of rail properties pursuant to section 303, the Association, in employing any additional employees, shall give priority consideration to employees of a railroad in reorganization and the provisions of this title shall apply to any such employees employed by the Association as if they were employees of the Corporation.

ASSIGNMENT OF WORK

SEC. 603. The Corporation shall have the right to assign, allocate, reassign, reallocate, and consolidate work formerly performed on the rail properties acquired pursuant to the provisions of this Act from a railroad in reorganization to any location, facility, or position on its system provided it does not remove said work from coverage of a collective-bargaining agreement and does not infringe upon the existing classification of work rights of any craft or class of employees at the location or facility to which said work is assigned, allocated, reassigned, reallocated, or consolidated and shall have the right to transfer to an acquiring railroad the work incident to the rail properties or facilities acquired by said acquiring railroad pursuant to this Act, subject, however, to the provisions of section 608 of this title.

COLLECTIVE BARGAINING AGREEMENTS

SEC. 604. (a) INTERIM APPLICATION.—Until completion of the agreements provided for under subsection (d) of this section, the Corporation shall, as though an original party thereto, assume and apply on the particular lines, properties, or facilities acquired all obligations under existing collective bargaining agreements covering all crafts and classes employed thereon, except that the Agreement of May, 1936, Washington, District of Columbia, and provisions in other existing job stabilization agreements shall not be applicable to transactions effected pursuant to this Act with respect to which the provisions of section 605 shall be superseding and controlling. During this period, employees of a railroad in reorganization who have seniority on the lines, properties, or facilities acquired by the Corporation pursuant to this Act shall have prior seniority roster rights on such acquired lines, properties, or facilities.

(b) SINGLE IMPLEMENTING AGREEMENT.—On or before the date of the adoption of the final system plan by the Association under section 207(c) of this Act, the representatives of the various classes or crafts of the employees of a railroad in reorganization involved in a conveyance pursuant to this Act and representatives of the Corporation shall commence negotiation of a single implementing agreement for each class and craft of employees affected providing (1) the identification of the specific employees of the railroad in reorganization to whom the Corporation offers employment; (2) the procedure by which those employees of the railroad in reorganization may elect to accept employment with the Corporation; (3) the procedure for acceptance of such employees into the Corporation's employment and their assignment to positions on the Corporation's system; (4) the procedure for determining the seniority of such employees in their respective crafts or classes on the Corporation's system which shall, to the extent possible, preserve their prior seniority rights; and (5) the procedure for determining equitable adjustment in rates of comparable positions. If no agreement with respect to the matters referred to in this subsection is reached by the end of thirty days after the commencement of negotiations, the parties shall within an additional ten days select a neutral referee and, in the event they are unable to agree upon the selection of such referee, then the National Mediation Board shall immediately appoint a referee. After a referee has been designated, a hearing on the dispute shall commence as soon as practicable. Not less than ten days prior to the effective date of any conveyance pursuant to the provisions of this Act, the referee shall resolve and decide all matters in dispute with respect to the negotiation of said implementing agreement or agreements and shall render a decision which shall be final and binding and shall constitute the implementing agreement or agreements between the parties with respect to the transaction involved. The salary and expenses of the referee shall be paid pursuant to the provisions of the Railway Labor Act.

(c) Notwithstanding failure for any reason to complete implementing agreements provided for in subsection (b) of this section, the Corporation may proceed with a conveyance of properties, facilities, and equipment pursuant to the provisions of this Act and effectuate said transaction: Provided, That all protected employees shall be entitled to all of the provisions of such agreements, as finally determined, from the time they are adversely affected as a result of any such conveyance.

(d) No later than sixty days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes or crafts of the employees of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiations of new collective-bargaining agreements for each class and craft of employees covering the rates of pay, rules, and working conditions of employees who are employees of the Corporation, which collective-bargaining agreements shall include appropriate provisions concerning rates of pay, rules, and working conditions but shall not include any provisions for job stabilization resulting from any transaction effected pursuant to this Act which may exceed or conflict with those established or prescribed herein.

EMPLOYEE PROTECTION

SEC. 605. (a) EQUIVALENT POSITION.—A protected employee whose employment is governed by a collective-bargaining agreement will not, except as explicitly provided in this title, during the period in which he is entitled to protection, be placed in a worse position with respect to compensation, fringe benefits, rules, working conditions, and rights and privileges pertaining thereto.

(b) MONTHLY DISPLACEMENT ALLOWANCE.—A protected employee, who has been deprived of employment or adversely affected with respect to his compensation, shall be entitled to a monthly displacement allowance computed as follows:

(1) Said allowance shall be determined by computing the total compensation received by the employee, including vacation allowances and monthly compensation guarantees, and his total time paid for during the last twelve months immediately prior to his being adversely affected in which he performed compensated service more than 50 per centum of each of such months, based upon his normal work schedule, and by dividing separately the total compensation and the total time paid for by twelve, thereby producing the average monthly compensation and average monthly time paid for; and, if an employee's compensation in his current position is less in any month in which he performs work than the aforesaid average compensation, he shall be paid the difference, less any time lost on account of voluntary absences other than vacations, but said protected employee shall be compensated in addition thereto at the rate of the position filled for any time worked in excess of his average monthly time: *Provided, however,* That—

(A) in determining compensation in his current employment the protected employee shall be treated as occupying the position, producing the highest rate of pay to which his qualifications and seniority entitles him under the applicable collective-bargaining agreement and which does not require a change in residence;

(B) the said monthly displacement allowance shall be reduced by the full amount of any unemployment compensation benefits received by the protected employee and shall be reduced by an amount equivalent to any earnings of said protected employee in any employment subject to the Railroad Retirement Act and 50 per centum of any earnings in any employment not subject to the Railroad Retirement Act;

(C) a protected employee's average monthly compensation shall be adjusted from time to time thereafter to reflect subsequent general wage increases;

(D) should a protected employee's service total less than twelve months in which he performs more than 50 per centum compensated service based upon his normal work schedule in each of said months, his average monthly compensation shall be determined by dividing separately the total compensation received by the employee and the total time for which he was paid by the number of months in which he performed more than 50 per centum compensated service based upon his normal work schedule; and

(E) the monthly displacement allowance provided by this section shall in no event exceed the sum of $2,500 in any month except that such amount shall be adjusted to reflect subsequent general wage increases.

(2) A protected employee's average monthly compensation under this section shall be based upon the rate of pay applicable to his employment and shall include increases in rates of pay not in fact paid but which were provided for in national railroad labor agreements generally applicable during the period involved.

(3) If a protected employee who is entitled to a monthly displacement allowance served as an agent of a representative of a craft or class of employees on either a full or part-time basis in the twelve months immediately preceding his being adversely affected, his monthly displacement allowance shall be computed by taking the average of the average monthly compensation and average monthly time paid for of the protected employees immediately above and below him on the same seniority roster or his own monthly displacement allowance, whichever is greater.

(4) An employee and his representative shall be furnished with a protected employee's average monthly compensation and average monthly time paid for, computed in accordance with the terms of this subsection, together with the date upon which such computations are based, within thirty days after the protected employee notifies the Corporation in writing that he has been deprived of employment or adversely affected with respect to his compensation.

(c) TERMINATION OF ALLOWANCE.—The monthly displacement allowance provided for in subsection (b) of this section shall continue until the attainment of age sixty-five by a protected employee with five or more years of service on the effective date of this Act and, in the case of a protected employee who has less than five years service on such date, shall continue for a period equal to his total prior years of service: *Provided*, That such monthly displacement allowance shall terminate upon the protected employee's death, retirement, resignation, or dismissal for cause; and shall be suspended for the period of disciplinary suspension for cause, failure to work due to illness or disability, voluntary furlough, or failure to retain or obtain a position available to him by the exercise of his seniority rights in accordance with the provisions of this section.

(d) TRANSFER OF EMPLOYMENT.—(1) A protected employee who has been deprived of employment may be required by the corporation, in inverse seniority order and upon reasonable notice, to transfer to any bona fide vacancy for which he is qualified in his same craft or class on any part of the Corporation's system and shall then be governed by the collective bargaining agreement applicable on the seniority district to which transferred. If such transfer requires a change in residence, any such protected employee may choose (A) to voluntarily furlough himself at his home location and have his monthly displacement allowance suspended during the period of voluntary furlough, or (B) to be severed from employment upon payment to him of a separation allowance computed as provided in subsections (e) and (f) of this section, which separation allowance shall be in lieu of all other benefits provided by this title.

(2) Such protected employee shall not be required to transfer to a location requiring a change in residence unless there is a bona fide need for his services at such location. Such bona fide need for services contemplates that the transfer be to a position which has not and cannot be filled by employees who are not required to make a change in residence in the seniority district involved and which, in the absence of this section, would have required the employment of a new employee.

(3) Such protected employee who, at the request of the corporation, has once accepted and made a transfer to a location requiring a change in residence, shall not be required again to so transfer for a period of three years.

(4) Transfers to vacancies requiring a change in residences shall be subject to the following:

(A) The vacancy shall be first offered to the junior qualified protected employee deprived of employment in the seniority district where the vacancy exists, and each such employee shall have twenty days to elect one of the options set forth in paragraph (1) of this subsection. If that employee elects not to accept the transfer, it will then be offered in inverse seniority order to the remaining qualified, protected employees deprived of employment on the seniority district, who will each have twenty days to elect one of the options set forth in paragraph (1) of this subsection.

(B) If the vacancy is not filled by the procedure in paragraph (4)(A) of this subsection, the vacancy will then be offered in the inverse order of seniority to the qualified, protected employees deprived of employment on the system and each of such employees will be afforded thirty days to elect one of the options set forth in paragraph (1) of this subsection.

(C) The provisions of this paragraph (4) shall not prevent the adoption of other procedures pursuant to an agreement made by the Corporation and representative of the class or craft of employees involved.

(e) A protected employee who is tendered and accepts an offer by the Corporation to resign and sever his employment relationship in consideration of payment to him of a separation allowance, and any protected employee whose employment relationship is severed in accordance with subsection (d) of this section, shall be entitled to receive a lump-sum separation allowance not to exceed $20,000 in lieu of all other benefits provided by this title. Said lump-sum separation allowance, in the case of a protected employee who had not less than three nor more than five years of service as of the date of this Act, shall amount to two hundred and seventy days' pay at the rate of the position last held and, in the case of a protected employee having had five or more years' service, shall amount to the number of days' pay indicated below at the rate of the position last held dependent upon the age of the protected employee at the time of such termination of employment:

60 or under	360 days' pay
61	300 days' pay
62	240 days' pay
63	180 days' pay
64	120 days' pay.

(f) The Corporation may terminate the employment of an employee of a railroad in reorganization, who has less than three years' service as of the effective date of this Act: *Provided, however*, That in such event the terminated employee shall be entitled to receive a lump sum separation allowance in an amount determined as follows:

2 to 3 years' service	180 days' pay at the rate of the position last held.
1 to 2 years' service	90 days' pay at the rate of the position last held.
Less than 1 year's service	5 days' pay at the rate of the position last held for each month of service.

(g) Any protected employee who is required to make a change of residence as the result of a transaction shall be entitled to the following benefits:

(1) Reimbursement for all expenses of moving his household and other personal effects, for the traveling expense of himself and members of his family, including living expenses for himself and his family, and for his own actual wage loss, not to exceed ten working days: *Provided*, That the Corporation or acquiring railroad shall, to the same extent provided above, assume said expenses for any employee furloughed with three years after changing his point of employment as a result of a transaction, who elects to move his place of residence back to his original point of employment. No claim for reimbursement shall be paid under the provisions of this section unless such claim is presented to the Corporation or acquiring railroad within ninety days after the date on which the expenses were incurred.

(2)(A)(i) If the protected employee owns, or is under a contract to purchase, his own home in the locality from which he is required to move and elects to sell said home, he shall be reimbursed for any loss suffered in the sale of his home for less than its fair market value. In each case the fair market value of the home in question shall be determined as of a date sufficiently prior to the date of the transaction so as to be unaffected thereby. The Corporation or an acquiring railroad shall in each instance be afforded an opportunity to purchase the home at such fair market value before it is sold by the employee to any other person.

(ii) A protected employee may elect to waive the provisions of paragraph (2)(A)(i) above, and receive, in lieu thereof, an amount equal to his closing costs which are ordinarily paid for and assumed by a seller of real estate in the jurisdiction in which the residence is located. Such costs shall include a real estate commission paid to a licensed realtor (not to exceed $3,000 or 6 per centum of sale price, whichever is less), and any prepayment penalty required by the institution holding the mortgage; such costs shall not include the payments of any "points" by the seller.

(B) If the protected employee holds an unexpired lease on a dwelling occupied by him as his home, he shall be protected from all loss and cost in securing the cancellation of said lease.

(C) No claim for costs or loss shall be paid under the provisions of this paragraph (2) unless such claim is presented to the Corporation or an acquiring railroad within ninety days after such costs or loss are incurred.

(D) Should a controversy arise with respect to the value of the home, the costs or loss sustained in its sale, the costs or loss under a contract for purchase, loss or cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through joint conference between the employee, or his representative, and the Corporation or an acquiring railroad. In the event they are unable to agree, the dispute or controversy may be referred by either party to a board of competent real estate appraisers, elected in the following manner: One to be selected by the employee or his representative and one by the Corporation or an acquiring railroad, and these two, if unable to agree upon a valuation within thirty days, shall endeavor by agreement within ten days thereafter to select a third appraiser, or to agree to a method by which a third appraiser shall be selected, and, failing such agreement, either party may request the National Mediation Board to designate within ten days a third qualified real estate appraiser whose designation will be binding upon the parties. A decision of a majority of the appraisers shall be required and said decision shall be final and conclusive. The salary and expenses of the third or neutral appraiser, including the expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

(h) Should a railroad rearrange or adjust its forces in anticipation of a transaction with the purpose or effect of depriving a protected employee of benefits to which he otherwise would have become entitled under this title, the provisions of this title will apply to such employee.

PERFORMANCE OF WORK

SEC. 606. All work in connection with the operation or services provided by the Corporation on the rail lines, properties, equipment, or facilities acquired pursuant to the provisions of this Act and the maintenance, repair, rehabilitation, or modernization of such lines, properties, equipment, or facilities which has been performed by practice or agreement in accordance with provisions of the existing contracts in effect with the representatives of the class or craft involved shall continue to be performed by said Corporation's employees, including employees on furlough. Should the Corporation lack a sufficient number of employees, including employees on furlough, and is unable to hire additional employees, to perform the work

required, it shall be permitted to subcontract that part of such work which cannot be performed by its employees including those on furlough, except where agreement by the representatives of the employees of the class or craft involved is required by applicable collective bargaining agreements. The term "unable to hire additional employees" as used in this section contemplates establishment and maintenance by the Corporation of an apprenticeship, training, or recruitment program to provide an adequate number of skilled employees to perform the work.

ARBITRATION

SEC. 607. Any dispute or controversy with respect to the interpretation, application, or enforcement of the provisions of this title, except section 604(d) and those disputes or controversies provided for in subsection (g)(2)(D) of section 605 and subsection (b) of section 604 which have not been resolved within ninety days, may be submitted by either party to an Adjustment Board for a final and binding decision thereon as provided in section 3 Second, of the Railroad Labor Act (45 U.S.C. 153 Second), in which event the burden of proof on all issues so presented shall be upon the Corporation or, where applicable, the Assocation.

ACQUIRING RAILROADS

SEC. 608. An acquiring railroad shall offer such employment and afford such employment protection to employees of a railroad from which it acquires properties or facilities pursuant to this Act, and shall further protect its own employees who are adversely affected by such acquisition, as shall be agreed upon between the said acquiring railroad and the representatives of such employees prior to said acquisition: *Provided, however,* That the protection and benefits provided for protected employees in such agreements shall be the same as those specified in section 605 of this title; *And provided further, however,* That unless and until such agreements are reached, the acquiring railroad shall not enter into purchase agreements pursuant to section 206 of this Act.

PAYMENT OF BENEFITS

SEC. 609. The Corporation, Association, (where applicable), and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs, provided protected employees pursuant to the provisions of this title. The Corporation, Association (where applicable), and acquiring railroads shall then be reimbursed for such actual amounts paid protected employees, not to exceed the aggregate sum of $250,000,000, pursuant to the provisions of this title by the Railroad Retirement Board upon certification to said Board by the Corporation, Association, and acquiring railroads of the amounts paid such employees. Such reimbursement shall be made from a separate account maintained in the Treasury of the United States to be known as the Regional Rail Transportation Protective Account. There is hereby authorized to be appropriated to such protective account annually such sums as may be required to meet the obligations payable hereunder, not to exceed in the aggregate, however, the sum of $250,000,000. There is further authorized to be appropriated to tne Railroad Retirement Board annually such sums as may be necessary to provide for additional administrative expenses to be incurred by the Board in the performance of its functions under this section.

WORK RULES STUDY

SEC. 610. The Secretary of Labor, in consultation with the Secretary, the Chairman of the Commission and other interested parties, shall conduct a study of the effect of existing work rules on the consolidation of the operations of the railroads in reorganization under this Act. The Secretary shall submit to the President and to the Congress his findings and recommendations as a result of such study no later than the date for submission of the final system plan as provided in subsection 207(c) of this Act.

EMPLOYEE DISPLACEMENT STUDY

SEC. 611. (a) SCOPE.—The Secretary of Labor shall, within 1 year after the Corporation commences operations and each year for the succeeding four years thereafter, conduct a study of and report to the President and the Congress on the extent of the displacement of railroad employees and the extent to which the railroad industry as a whole and each individual carrier contribute to the solution of the displacement problem by employing workers displaced as a result of this Act.

(b) ROSTER.—The Corporation, acquiring railroads, and the Railroad Retirement Board, shall maintain a roster or rosters of railroad employees furloughed, displaced, transferred, or otherwise affected as a result of transactions under this Act, and shall provide such information together with other information needed and requested by the Secretary of Labor in fulfilling his responsibilities under this section.

(c) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated annually to the Secretary of Labor and to the Railroad Retirement Board such sums as may be necessary to provide for additional administrative expenses incurred by the Secretary of Labor and the Railroad Retirement Board in the performance of their functions under sections 610 and 611 of this title.

TITLE VII—GENERAL PROVISIONS

RELATIONSHIP TO OTHER LAWS

SEC. 701. (a) ANTITRUST.—(1) Except as specifically provided in paragraph (2) of this subsection, no provision of this Act shall be deemed to convey to any railroad or employee or director thereof any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(2) The antitrust laws are inapplicable with respect to any action taken to formulate or implement the final system plan where such action was in compliance with the requirements of such plan.

(3) As used in this subsection, "antitrust laws" includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; and the Act of June 19 1936 (ch. 592, 49 Stat. 1526), as amended.

(b) COMMERCE AND BANKRUPTCY.—The provisions of the Interstate Commerce Act (49 U.S.C. et seq.) and the Bankruptcy Act (11 U.S.C. et seq.) are inapplicable to transactions under this Act to the extent necessary to formulate and implement the final system plan whenever a provision of any such Act is inconsistent with this Act.

(c) ENVIRONMENT.—(1) The provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 (2)(C)) shall not apply with respect to any action taken under authority of this Act before the effective date of the final system plan;

(2) With respect to any action taken under authority of this Act after the effective date of the final system plan in a proceeding before the Commission, or in any other proceeding before the Commission after the date of enactment of this Act, the proponent of any rule or order shall have the burden of proving that any action requested of the Commission shall not significantly impair the quality of the human enviroment, or otherwise be inconsistent with the purposes and objectives of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.), the Water Quality Improvement Act of 1970 (33 U.S.C. 1151 et seq.), the Resource Recovery Act of 1970 (42 U.S.C. 3251 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901), or any other Federal law administered by the Administrator of the Environmental Protection Agency. In no case shall the Commission take significant action under any provision of the Interstate Commerce Act without including as part of such action an assessment or statement of its impact on the environment. The Commission shall make such assessment or statement as part of its initial decision. Any party or other interested person may seek agency review within 45 days of the date of issuance of such initial decision by the Commission.

(d) NORTHEAST CORRIDOR.—(1) Rail properties designated in accordance with section 206(c)(1)(C) of this Act shall be purchased or leased by the National Railroad Passenger Corporation or the regional transportation authority designated in the final system plan. The Corporation shall negotiate an appropriate sale or lease agreement with the National Railroad Passenger Corporation or regional transportation authority as provided in the final system plan.

(2) Properties acquired pursuant to this subsection shall be improved in order to meet the goals set forth in section 206(a)(3) of this Act at the earliest practicable date, but in no event later than 6 years after the date of enactment.

(3) The Secretary shall begin the necessary engineering studies upon enactment.

(4) The final system plan shall provide for any necessary coordination by freight or commuter services of use of the facilities designed in section 206(c)(1)(C) of this Act. Such coordination may be effectuated through a single operating entity, designated in the final system plan, or as mutually agreed upon by the interested parties.

(5) Construction or improvements made pursuant to this subsection shall be under the supervision of and in consultation with the Corps of Engineers.

(e) EMERGENCY SERVICE.—Section 1(16) of the Interstate Commerce Act (49 U.S.C. 1(16)) is amended by inserting "(a)" before the word "Whenever" in the first sentence and adding the following new paragraph:

"(b) Whenever any carrier by railroad is unable to transport the traffic offered it because—

"(1) its cash position makes it continuing operation impossible;

"(2) it has been ordered to discontinue any service by a court; or

"(3) it has abandoned service without obtaining a certificate from the Commission pursuant to this section;

the Commission may, upon the same procedure as provided in paragraph (15) of this section, make such just and reasonable directions with respect to the handling, routing, and movement of the traffic available to such carrier and its distribution over such carrier's lines, as in the opinion of the Commission will best promote the service in the interest of the public and the commerce of the people subject to the following conditions:

"(A) Such direction shall be effective for no longer than 60 days unless extended by the Commission for cause shown for an additional designated period not to exceed 180 days.

"(B) No such directions shall be issued

that would cause a carrier to operate in violation of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421) or that would substantially impair the ability of the carrier so directed to serve adequately its own patrons or to meet its outstanding common carrier obligations.

"(C) The directed carrier shall not, by reason of such Commission direction, be deemed to have assumed or to become responsible for the debts of the other carrier.

"(D) The directed carrier shall hire employees of the other carrier to the extent such employees had previously performed the directed service for the other carrier, and, as to such employees as shall be so hired, the directed carrier shall be deemed to have assumed all existing employment obligations and practices of the other carrier relating thereto, including but not limited to agreements governing rate of pay, rules and working conditions, and all employee protective conditions commencing with and for the duration of the direction.

"(E) Any order of the Commission entered pursuant to this paragraph shall provide that if, for the period of its effectiveness, the cost as hereinafter defined, of handling, routing, and moving the traffic of another carrier over the other carrier's lines of road shall exceed the direct revenues therefor, then upon request, payment shall be made to the directed carrier, in the manner hereinafter provided and within 90 days after expiration of such order, of a sum equal to the amount by which such cost has exceeded said revenues. The term 'cost' shall mean those expenditures made or incurred in or attributable to the operations as directed, including the rental or lease of necessary equipment, plus an appropriate allocation of common expenses, overheads, and a reasonable profit. Such cost shall be then currently recorded by the carrier or carriers in such manner and on such forms as by general order may be prescribed by the Commission and shall be submitted to and subject to audit by the Commission. The Commission shall certify promptly to the Secretary of the Treasury the amount of payment to be made to said carrier or carriers under the provisions of this paragraph. Payments required to be made to a carrier under the provisions of this paragraph shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions hereof.".

ANNUAL EVALUATION BY THE SECRETARY

SEC. 702. As part of his annual report each year, the Secretary shall transmit to Congress each year a comprehensive report on the effectiveness of the Association and the Corporation in implementing the purposes of this Act, together with any recommendations for additional legislative or other action.

FREIGHT RATES FOR RECYCLABLES

SEC. 703. (a) RATE POLICY.—In view of existing and anticipated shortages of critical natural resources, the Transportation Commissions, within the scope of their respective jurisdictions, are hereby directed to effect with the least practicable delay such lawful changes in the rate structure of the country as will promote the freedom of movement by common carriers of recyclable materials at the lowest possible lawful rates compatible with the maintenance of adequate transportation service: *Provided*, That no investigation or proceeding resulting from the enactment of this section shall be permitted to delay the decision of cases now pending before either of these commissions and involving rates on recyclable materials, but such cases shall be decided in accordance with this section.

(b) INVESTIGATING RATES.—The transportation commissions, within the maximum scope of their respective statutory jurisdictions, shall, within 36 months after the date of enactment of this Act and on a continuing basis thereafter—

(1) investigate and formally identify all rates charged by transportation carriers subject to their respective jurisdictions for the transportation of recyclable materials and shall, in each case, after a hearing has been afforded, determine whether the rates charged and the terms and conditions of transportation for such materials are reasonable or whether they unjustly discriminate against the movement or shipment in interstate or foreign commerce of recyclable materials and in favor of competing virgin natural resource materials or commodities;

(2) issue appropriate orders in all cases where the rates charged or terms and conditions of transportation applicable to recyclable materials are found to be unreasonable or discriminatory pursuant to which such rates and conditions of transportation will be effectively canceled and repealed and replaced by rates, tariffs, and conditions of transportation which are found to be fair; reasonable, and nondiscriminatory; and

(3) file annual reports with the President and the Congress on the 10th day of December of each year and such terminal reports as shall be appropriate to reflect all actions commenced or completed under the Act during the reporting period to eliminate unreasonable and unjustly discriminatory rates for the transportation of recyclable materials.

(c) INTERVENTION.—The Administrator of Environmental Protection Agency shall take such steps as are necessary to insure that the directives of subsections (a) and (b) of this section are carried out as expeditiously as possible, including the initiation of and intervention in proceedings before the Transportation Commission. Such Administrator shall have such standing in proceedings before these commissions as is necessary to comply with this subsection. Attorneys appointed by such Administrator may appear for and represent him in any such proceedings.

(d) UNREASONABLE AND DISCRIMINATORY RATES.—(1) In addition to all other obligations imposed by law, a Transportation Commission shall not approve, authorize, or allow to go into effect any rate or charge increase for the transportation of recyclable materials which is unreasonable or unjustly discriminatory when such increase or existing rate for such recyclable materials is compared with the increase approved, authorized, or allowed to go into effect or with the existing rate demanded or collected by the railroad or carrier for the transportation of virgin natural resources which complete with such recyclable material.

(2) In addition to all other obligations imposed by law, it shall be unlawful for any railroad, common carrier by water, motor carrier, or any group, conference, or association of railroads or carriers, or for any officer or agent thereof to (1) file with the Transportation Commission or (2) demand, charge or collect any rate or charge, schedule of rates or charges, proposed rate or rate increase, classification or tariff for the transportation of recyclable materials which is unreasonable or unjustly discriminatory when compared with any rate or charge, schedule of rates or charges, proposed rate or rate increase, classification or tariff already on file or filed or charged or demanded by such railroad, carrier, group, conference or association of railroads or carriers for the transportation of virgin natural resources that compete with such recyclable materials; and before any such rate, charge, rate increase, schedule, tariff, or classification is accepted for filing, the filing party shall be required to furnish such evidence as shall be necessary to establish that the same is not unreasonable or unjustly discriminatory.

(e) COMPLAINTS.—Any person may file a complaint with a Transportation Commission which alleges that rates charges, or tariffs or proposed rate increases for the transportation of recyclable materials within its jurisdiction and not already under investigation are unreasonable or unjustly discriminatory or both. Upon filing of any such complaint, the affected Commission shall forward a copy thereof to the railroads or other carriers whose rates or proposed rate increases are challenged. Such carriers shall be offered a reasonable opportunity to answer such allegations in writing. The affected Commission shall thereupon investigate and, after a hearing has been afforded, determine whether such rates, charges, tariffs, or proposed rate increases are unreasonably or unjustly discriminatory when compared with the rates, charges, or tariffs charged or filed by responding railroads or other carriers for transportation of competing virgin natural resources. If such rates, charges, tariffs, or proposed rate increases are found to be unreasonable or unjustly discriminatory, the affected Commission shall issue an appropriate order which effectively cancels such rates, charges, or tariffs or denies such rate increases, and replaces them with rates, charges, tariffs, and conditions of transportation found to be reasonable and nondiscriminatory, and the respondents shall be ordered to comply with the affected Commission's rulings.

(f) PROCEEDINGS.—(1) In any proceeding under this section, the railroads or carriers whose existing or proposed rates are under investigation shall establish by a preponderance of the evidence on the record, subject to cross-examination, that such rates are reasonable and nondiscriminatory.

(2) The Transportation Commission shall make specific findings based upon appropriate references to the record with respect to all determinations made by it in accordance with this section. If either Commission wishes to rely on its own experts in making these findings, such experts shall place all evidence in the record, subject to cross-examination.

(3) With respect to detrminations required under this title, facts and conclusions offered in evidence by other governmental agencies having specific expertise in such matters as functional equivalence, substitutability, or environmental impact and the degree thereof, shall be presumed to be true unless rebutted by a preponderance of the evidence.

(4) Because of the important environmental interest involved in such proceedings, the Transportation Commissions shall give full preference to the hearing and decision of such questions and decide them as speedily as possible. In any such case, a Transportation Commission may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and such other evidence as may be required. Attendance of witnesses and production of evidence in response to subpoena may be required from any place in the United States to any designated place of hearing. Persons acting under subpoena, except employees of either such commission, shall be entitled to the same fees and mileage as are paid for appearances in the courts of the United States. Obedience to any such subpoena shall, on application of the affected commis-

sion, be enforced by any district court of the United States having jurisdiction over the parties or witnesses involved. In such cases, depositions, written interrogatories, and other discovery procedures shall be available to the extent practicable and in conformity with the rules applicable to civil proceedings in the district courts of the United States.

(g) REVIEW.—Orders issued by a Transportation Commission pursuant to this section shall be subject to judicial review or enforcement by any court with appropriate jurisdiction in accordance with the provisions of the Interstate Commerce Act (49 U.S.C. 1, et seq.) and the Shipping Act of 1916 (46 U.S.C. 801, et seq.).

(h) PRESUMPTION AND DEFINITION.—For the purposes of this section—

(1) A recyclable material which is functionally or technically equivalent to or substitutable, in any industrial or manufacturing process, for any virgin natural resource material shall be presumed to be competitive with such virgin natural resource material unless this presumption is rebutted by a preponderance of the evidence.

(2) "Recyclable material" means any material such as scrap metal, discarded textiles, rubber, plastic, glass, and others which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be usefully recovered from solid waste resources such as garbage, refuse, or trash or from industrial, commercial, and agricultural operations for reuse or recycling.

(3) "Transportation Commission" means, to the extent of their respective jurisdictions, the Federal Maritime Commission and the Interstate Commerce Commission.

(i) REGULATION.—The Transportation Commissions are authorized to prescribe such regulations as may be necessary to carry out the provisions and purposes of this section.

(j) PENALTIES.—Any person who violates subsection (d) of this section shall be subject to a civil penalty of not more than $5,000 for each such violation. Such civil penalty shall be assessed by the Transportation Commission which has jurisdiction over the violation. Such penalty may be remitted or mitigated upon such terms as the affected Commission shall deem consistent with the purposes of this section.

SEPARABILITY

SEC. 704. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Amend the title so as to read: "An Act to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast region of the United States, and for other purposes."

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged against the order of time allotted to Mr. LONG.

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

The legislative clerk proceeded to call the roll.

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

Mr. President, I ask unanimous consent that the remainder of the time allotted to Mr. LONG be vacated.

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

Mr. GRIFFIN. Mr. President, I yield back the time remaining under my special order.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 12 noon, with statements therein limited to 3 minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER THAT AMENDMENTS TO S. 1868 AND S. 2686 AT THE DESK PRIOR TO CLOTURE VOTES QUALIFY UNDER THE RULE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent in accordance with the rather normal procedure, certainly as of late, that, on both of the bills, the Rhodesian chrome bill and the legal services bill—in connection with each of which there will be a vote on a motion to invoke cloture today—all amendments that are at the desk, as of the hour the rollcall vote begins on the motion to invoke cloture, may be considered as having been read by the clerk, so that they may be qualified to be called up under the rule.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

LEGAL SERVICES CORPORATION ACT—SUBMISSION OF AMENDMENT

AMENDMENT 898

Mr. COTTON. Mr. President, I send to the desk an amendment to S. 2686, the Legal Services bill, and ask that it be read so that it will qualify under the rules of the Senate.

The PRESIDING OFFICER. The amendment does not have to be read. Under the unanimous-consent agreement previously entered into, the amendment will be considered as having been read.

The amendment will be received and printed and will lie on the table.

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

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

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A petition from Miro Nohavec, Franklin Lakes, N.J., praying for redress of grievances. Referred to the Committee on the Judiciary.

A petition from Earle Ray Esgate, San Jose, Calif., praying for redress of grievances. Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

H.R. 11771. An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93-620).

By Mr. GRAVEL, from the Committee on Public Works, without amendment:

S. 1561. A bill to provide that Mansfield Lake, Ind., shall be known as "Cecil M. Harden Lake" (Rept. No. 93-624);

S. 2509. A bill to name structure S-5A of the Central and Southern Florida Flood Control District, located in Palm Beach County, Fla., as the "W. Turner Wallis Pumping Station" in memory of the late W. Turner Wallis, the first secretary-treasurer and chief engineer for the Central and Southern Florida Flood Control District (Rept. No. 93-625);

S. 2535. A bill to designate the Chartiers Creek flood protection project in Allegheny County, Pa., as the "James G. Fulton flood protection project"; (Rept. No. 93-626); and

H.R. 655. An act to provide for the naming of the lake to be created by the Buchanan Dam, Chowchilla River, Calif. (Rept. No. 93-627).

By Mr. RANDOLPH, from the Committee on Public Works, with amendments:

H.R. 11372. An act to conserve energy on the Nation's highways (Rept. No. 93-628).

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, without amendment:

S. 2795. A bill to authorize the Secretary of the Treasury to change the alloy and weight of the 1 cent piece (Rept. No. 93-622).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

H.R. 620. An act to establish within the Department of the Interior and additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes (Rept. No. 93-623).

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

S. 2264. A bill to provide civil service re-

tirement credit for certain language instructors of the Foreign Service Institute, Department of State (Rept. No. 93-629).

By Mr. MUSKIE, from the Committee on Public Works, without amendment:

S. 2812. An original bill to authorize a formula for the allocation of funds authorized for fiscal year 1975 for sewage treatment construction grants, and for other purposes (Rept. No. 93-630), together with additional views.

HEALTH MAINTENANCE ORGANIZATION ACT OF 1973—CONFERENCE REPORT—REPORT OF A COMMITTEE—(REPT. NO. 93-621)

Mr. KENNEDY, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes, submitted a report thereon, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. CANNON, from the Committee on Armed Services:

James W. Plummer, of California, to be Under Secretary of the Air Force.

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.

By Mr. EASTLAND, from the Committee on the Judiciary:

Richard Owen, of New York, to be U.S. district judge for the southern district of New York;

Albert J. Engel, of Michigan, to be a U.S. circuit judge for the sixth circuit; and

Russell James Harvey, of Michigan, to be U.S. district judge for the eastern district of Michigan.

By Mr. EASTLAND, from the Committee on the Judiciary:

John O. Olson, of Wisconsin, to be U.S. attorney for the western district of Wisconsin;

William C. Conner, or New York, to be U.S. district judge for the southern district of New York;

Evan LeRoy Hultman, of Iowa, to be U.S. attorney for the northern district of Iowa;

William A. Quick, Jr., of Virginia, to be U.S. marshal for the western district of Virginia;

Era DeMent, of Alabama, to be U.S. attorney for the middle district of Alabama;

Julio A. Brady, of the Virgin Islands, to be U.S. attorney for the Virgin Islands; and

William B. SAXBE, of Ohio, to be Attorney General.

The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. SPARKMAN, from the Committee on Banking, Housing, and Urban Affairs:

Ralph Dwight DeNunzio, of Connecticut, to be a Director of the Securities Investor Protection Corporation.

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. GRAVEL:

S. 2806. A bill to establish an Energy Trust Fund funded by a tax on energy sources, to establish a Federal Energy Administration, to provide for the development of domestic sources of energy and for the more efficient utilization of energy, and for other purposes. Referred to the Committee on Finance.

By Mr. TALMADGE (for himself and Mr. NUNN):

S. 2807. A bill to name the Federal building, U.S. Post Office, U.S. courthouse in Brunswick, Ga., as the "Frank M. Scarlett Federal Building". Referred to the Committee on Public Works.

By Mr. HANSEN:

S. 2808. A bill to authorize the Secretary of the Interior to sell certain rights in the State of Wyoming. Referred to the Committee on Interior and Insular Affairs.

By Mr. MONDALE (for himself and Mr. HART):

S. 2809. A bill to amend the Manpower Development and Training Act (P.L. 87-415, as amended) to require prenotification to affected employees and communities of dislocation of business concerns, to provide assistance—including retraining—to employees who suffer employment loss through the dislocation of business concerns, to business concerns threatened with dislocation, and to affected communities, to prevent Federal support for unjustified dislocation, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. GOLDWATER:

S. 2810. A bill to protect the constitutional right of privacy of individuals concerning whom identifying numbers or identifiable information is recorded by enacting principles of information practice in furtherance of amendments I, III, IV, V, IX, X, and XIV of the U.S. Constitution. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 2811. A bill to provide a simplified and uniform procedure for the imposition, collection, and administration of State and local sales and use taxes with respect to interstate commerce, to reduce significantly the burden of tax compliance for persons engaged in making sales in interstate commerce, and to eliminate restrictions on the taxing power of the States which now prevent them from securing collection and remittance of such taxes on certain interstate sales. Referred to the Committee on Finance.

By Mr. MUSKIE:

S. 2812. An original bill to authorize a formula for the allocation of funds authorized for fiscal year 1975 for sewage treatment construction grants, and for other purposes. Placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAVEL:

S. 2806. A bill to establish an Energy Trust Fund funded by a tax on energy sources, to establish a Federal Energy Administration, to provide for the development of domestic sources of energy and for the more efficient utilization of energy, and for other purposes. Referred to the Committee on Finance.

THE ENERGY REVENUE AND DEVELOPMENT ACT OF 1973

Mr. GRAVEL. Mr. President, I am today introducing legislation to initiate and finance a national energy program, the aim of which is to develop our massive indigenous fossil fuel resources and to assist in the development of alternative sources of energy including coal gasification and liquefaction, solar, geothermal, nuclear, tidal, conversion of combustible waste materials and others.

The bill I am sponsoring would establish an energy trust fund, supported by the revenues of an energy tax—that is, a Btu tax at the source of all energy produced in, or imported into, the United States. The trust fund would be administered by the Secretary of the Treasury and the funds would be transferred to a Federal Energy Administration annually in accordance with appropriations from the trust fund. The bill would also establish a Commission on Energy Technology composed of scientists, engineers and economists. Their task would be to critically analyze the Government-sponsored research and development efforts, and the performance of the private sector in responding to the incentives provided in this bill to meet the energy needs of the Nation. This Commission would advise the executive and the Congress through public reports on the efficacy of the various options undertaken and contemplated as part of a national energy policy. The Commission would be charged with constructing an energy model on the United States and the vital information from this model would be made public on a monthly basis.

I am gratified that the administration has recently taken steps to create a Federal Energy Administration by Executive order. I have urged such an action for sometime, and in fact, gave a draft of the statutory language to create such an administration to Governor Love 1 month ago, when he was still energy czar.

While I applaud this move, it is my conviction that a clear statutory mandate is needed if we are to move our country toward a comprehensive national energy

policy designed to achieve energy independence over the next decade. The bill I am introducing today would provide such a mandate and commit our country to the task of becoming energy independent by 1985.

NEED: A NATIONAL ENERGY POLICY

It is my privilege to serve as chairman of the Subcommittee on Energy of the Committee on Finance. Our subcommittee recently conducted a series of hearings on the subject of fiscal policy and energy crisis. We heard from representatives of the administration, the Department of the Treasury, the academic community, and the private sector. In the course of our hearings, it became clear that our country lacks a long-term policy and program to increase the supply of energy in the coming years. Congress and the Executive have devoted their efforts to allocating short supplies to competing users and have centered the debate on such issues as a gasoline tax vs. rationing. The supply side of the equation has not received the attention it deserves.

The legislation I am introducing today is designed to provide a policy and program to develop our massive fossil fuel resources and to coordinate efforts to reach out for ways of tapping for commercial use the ultimate sources of energy—the sun, the tides, the heat of the earth's crust.

What is the nature of the so-called energy crisis? How did it happen? What does it mean to the average American? And how can we overcome it? These are questions most Americans are asking, and questions we must answer. For a decade or more the energy crisis has been a dark storm on the horizon.

For many reasons, but primarily because we have lacked a national energy policy, we have been charting a steady course toward that storm. Despite the repeated forecasts of energy experts, despite many opportunities to change our course, we are today faced with serious shortages of fossil fuels.

The duration and degree of the crisis for the present depend less upon remedial public policies than upon the severity of the coming winter. If the weather is warm, we will get by without great discomfort. If the weather is cold, we face serious shortages of heating fuels and the prospect of closed schools and plants. For the time being we can do little more than eliminate energy waste and restrain energy consumption. But what about the winters and years ahead? If we do not make the critical decisions now, those winters and years will be bleak indeed.

For the longer term it is within our power to solve our energy problems—if we have the wisdom and intelligence and will to do so. In the past, we have not evinced those qualities, and we have not shown foresight in our use of energy. In my opinion, the challenge ahead of us is as great as our country has confronted since World War II. If we can bring our country's finest qualities to the task, we can convert the energy crisis into energy promise and environmental opportunity.

In my judgment, the Arab oil boycott can be a golden opportunity. They did us a favor by forcing us to come to grips with all our divergent interests and make the decisions necessary that will insure our economic and military viability in the future. Had they waited until we drifted into a 50-percent dependency on them, it would have been too late to do anything but capitulate to their demands as we see happening in Europe and Japan. I am not suggesting the Arab position in the Middle East is totally in error. There is probably enough finger pointing and those situations are never black and white. But they have acted in what they perceive to be their own self-interest, and now we must act in our own self-interest. The fact is even without an Arab-Israeli conflict we would have had an energy crisis. They only brought the crisis to a head. We can make the crisis truly advantageous to ourselves.

How the energy crisis came about is a long story—a story subject to interpretation and disagreement. Past mistakes, however, should be reviewed, not for the purpose of fixing blame, but for their value in charting the future. The energy crisis is a crisis of our own making, and resolving it will require the full cooperation and finest efforts of Congress, the executive branch, private industry, and the American people. Fortunately, the essential tools and resources are at hand; we need only the intelligence and determination to use them wisely and well.

THE ENERGY SHORTAGE IS NOT A RESOURCE SHORTAGE, BUT A POLICY SHORTAGE

America's energy crisis—unlike Europe's or Japan's—is not a shortage of resources. Our country is endowed with enormous fossil fuel resources.

The United States has a large potential resource base of fossil fuels sufficient to meet its needs for several hundred years at present consumption levels. What exists today is a widening gap between energy consumption and the production of available energy supplies.

While there is certainly room for error in estimating the size of our energy resources, responsible studies have concluded that our indigenous resources are truly massive. I ask unanimous consent to have printed in the RECORD a table which compares the potential resources base with 1972 U.S. consumption.

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

TABLE 1.—U.S. CONSUMPTION AND RESOURCES OF ENERGY FUELS

Energy fuels	Potential resources	1972 consumption
Oil [1]	346 billion bbls	6.0 billion bbls.
Natural gas [1]	1,178 trillion cu ft	22.6 trillion cu ft.
Coal [2]	394 billion tons	517 million tons.
Uranium [3]	1.6 million tons	16 thousand tons.
Oil shale [4]	189 billion bbls	None.

[1] U.S. Geological Survey.
[2] U.S. Bureau of Mines.
[3] U.S. Atomic Energy Commission.
[4] National Petroleum Council. U.S. Energy Outlook, a Mutual Appraisal.

Mr. GRAVEL. If we developed all oil and gas resources in this country, we would have more than 100 times our 1973 needs. Our coal resources are 600 times current production. But it will take many years and huge amounts of capital to develop those resources.

In addition to these conventional sources of energy, the United States has the technology to develop alternative sources of energy from the Sun—solar—the wind, the Earth's crust—geothermal—the power of the atom—nuclear fission and fusion—and others. There are already existing facilities to "gasify" coal, and liquefaction of coal is also possible.

A strong, well-coordinated research and development program is necessary to develop these alternatives and to translate their technological feasibility into commercial uses in the most environmentally sensible way possible. There are generally considered longer range solutions and not remedies for the short-term problem. The short-term problem, it appears, can only be mitigated by cutbacks in U.S. consumption.

We have huge energy resources, but we have failed to allocate the capital, time and technology required to develop them and to bring them to the marketplace. Let me repeat: There is no shortage of energy resources in America; there is a shortage of energy policy.

HUGE CAPITAL REQUIREMENTS NEEDED TO DEVELOP RESOURCES

Developing and marketing our energy resources in the future is going to require greater effort and better planning than we have demonstrated in the past. It will take money. The National Petroleum Council estimates that we will require a capital investment of between $375 billion and $547 billion to produce our energy needs through 1985. I ask unanimous consent to have printed in the RECORD a table estimating the capital requirements of the energy industries. Governor Love told us the costs would approach $1 trillion, while the Chase Manhattan expert, John Winger, said that Banks studies estimated the capital requirements at $1.3 trillion.

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

TABLE 2.—SUMMARY OF CUMULATIVE CAPITAL REQUIREMENTS, U.S. ENERGY INDUSTRIES 1971–85

[In billions of 1970 dollars]

	Initial appraisal	High supply	Intermediate supply		Continuation of current trends
Oil and gas					
Exploration and production	92.4	171.8	144.8	135.1	88.0
Oil pipelines	3.5	7.5	7.5	7.5	7.5
Gas transportation	21.0	56.6	46.9	39.8	29.5
Refining [1]	20.0	19.0	24.0	30.0	38.0
Tankers, Terminals	14.5	2.0	9.0	16.0	23.0
Subtotal	151.4	256.9	232.2	228.4	186.0
Synthetics:					
From petroleum liquids		5.0	5.0	5.0	5.0
From coal (plants only)	1.5	12.0	4.6	4.6	1.7
From shale (mines and plants)	.5	4.0	2.2	2.2	.5
Subtotal	2.0	21.0	11.8	11.8	7.2
Coal: [2]					
Production	9.3	14.3	10.4	10.4	9.4
Transportation	6.0	6.0	6.0	6.0	6.0
Subtotal	15.3	20.3	16.4	16.4	15.4
Nuclear: Production, processing, enriching	5.0	13.1	11.0	8.5	6.7
Total, all fuels	173.7	311.3	271.4	265.1	215.3
Electric generation, transmission [3]	200.0	235.0	235.0	235.0	235.0
Water requirements	(4)	1.1	.8	.8	.7
Total energy industries	373.7	547.4	507.2	500.9	451.0

[1] Based on maximum U.S. requirements, some of which may be spent outside the United States.
[2] The last 4 columns do not include capital requirements for coal production for synthetic fuels. These requirements in billions of 1970 dollars are as follows: High supply—2.0; Intermediate supply—0.8; Continuation of current trends—0.3.

[3] Condition 1; capital requirements under all 6 conditions postulated by the electricity task group are as follows:

Condition	Cumulative Investment (1971–85) in billions of 1970 dollars					
	1	2	3	4	5	6
Powerplant construction	181	183	186	169	196	163
Transmission (estimated at 30 percent of condition 1 cumulative powerplant investment)	54	54	54	54	54	54
Total	235	237	240	223	250	217

[4] Not available.

NEED FOR A GAME PLAN

Mr. GRAVEL. Achieving near energy self-sufficiency by 1985 will also take planning. We must bring our technology to bear on the task of researching and developing alternative energy systems and sources, including gasification and liquefaction of coal as well as solar and geothermal energy, the most plentiful and promising energy resources we have. We have to develop a game plan to do these things in an environmentally sensible way.

We must also find new ways to use fuels more efficiently. In the past we have squandered our energy resources. Our demand for energy now equals one-third the world's consumption, and a significant portion is wasted. Our use of energy has developed without restriction, without planning, and with little or no attention to efficient consumption. The average electric power plant wastes almost one-half the energy potential of the coal which it consumes. Our automobiles, our appliances, generally consume and waste ludicrously large amounts of energy. Air and water pollution are often wasted energy resources.

NOTHING VALUABLE CAN BE "CHEAP"

Our past energy policies—or, more accurately, our past energy decisions—were designed simply to keep energy cheap, to encourage its consumption, and not to worry too much about where it was coming from. We regulated the price of natural gas and made our most valuable source of energy our cheapest fuel. We failed to realize that the regulation of natural gas prices drove other fossil fuels, particularly coal, into the ground and diverted capital from energy to other forms of investment. We foresaw the risk of relying on insecure foreign sources of energy, but we failed to take appropriate steps to reduce the risk because we wanted "cheap" foreign oil.

In our haste to protect our environment, we failed to develop and apply the technology to use fuels efficiently without polluting our air and water. Now, a 1973 Vega has the same gas mileage as a 1966 Cadillac.

We shackled our economy with price controls, creating bottlenecks, short supplies, a gush of exports, all to the detriment of the very consumers we were trying to protect.

Our tax policies discourage domestic exploration and drilling vis-a-vis foreign investment, so the capital we needed at home fled to foreign lands in search of "cheap" foreign oil.

We opened up our market to this oil by dismantling our import program and in 1972 imported about 30 percent of our consumption.

Now we find, however, that the oil our companies found abroad is no longer cheap—the average cost of foreign crude is $6.50 a barrel versus $4.15 for domestic crude—foreign prices are rising daily; nor is foreign crude available, because the producing nations have retaliated against us for our support of Israel in the recent Middle East crisis.

So, today we face an energy crisis with serious social, economic, and political ramifications. We are consuming oil at a rate of over 17 million barrels a day. We are producing at a rate of about 11 million barrels a day, and the rate of our production continues to fall behind the rate of our consumption. The remaining 6 million barrels of oil that we require each day must be imported. But a substantial part of our foreign supply has been curtailed, leaving us with a shortfall of some 3 million barrels a day. If and when foreign imports again become available, we will find that the cost of foreign oil will be a substantial drain on our balance of payments—at least $40 billion by 1980—and on our economy unless we adopt policies that reduce our dependency. Incidentally, that was projected to be the drain on our balance of payments in 1985. With the changes in prices today, that has been advanced by 5 years. We will never return to a "business as usual" basis in oil again.

If our goal is energy self-sufficiency over the next decade, we must apply our imagination and intelligence to the task and get started immediately.

The first thing we must recognize is that the cost of such an effort will be high—it will be high in terms of prices to consumers, in terms of changes in the habits of our people, and in terms of trade-offs with our environmental objectives and other national goals. The energy crisis is the direct result of our decisions in the past to artificially suppress energy prices. To resolve the energy crisis, the American people must understand that the era of cheap, unlimited energy is over and the free market, guarded by incentives to plow back increased earnings, must now be permitted to work its will.

The alternative is a growing energy shortage, reduced output and the risk of economic recession.

NO SUBSTITUTE FOR THE MARKET FOR ALLOCATING GOODS AND SERVICES

In large measure, our present energy shortages are the result of our past, ill

advised attempts to intervene in the energy marketplace. We must realize that there is no substitute for the law of market supply and demand. If we are to have adequate supplies and more intelligent consumption of energy, prices must be permitted to rise. These costs will be borne by the American public either as consumers or taxpayers.

NATURAL GAS REGULATION

The regulation of natural gas offers the best example of the folly of our past energy decisions. Natural gas is of such critical importance to the homeowner, the farmer, as well as certain segments of industry that the current natural gas shortage is in large measure the most critical energy problem facing the Nation. Yet, this country has been following a policy whose effects appear totally inconsistent with our energy needs—the Federal Power Commission's regulation of the price of natural gas at the wellhead. MIT's Paul MacAvoy and Robert Pindyck and Harvard's Steven Breyer concluded in their econometric studies that regulation of gas wellhead prices has produced the natural gas shortage that we are experiencing today.

Their study suggests that a phased deregulation would lead to a substantial increase in both reserves and production supply and that excess demand would be significantly reduced in 2 years and totally eliminated by 1979. These results are shown in table 3. The study projects that the alternative policy of strict controls—shown in table 5—would result in an increasing gap between production and consumption.

Mr. President, I ask unanimous consent to have printed in the RECORD two tables to which I have just referred.

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

TABLE 3.—THE EFFECTS OF PHASED DEREGULATION

Year	Field price on new contracts (cents per Mcf)	Additions to reserves (trillion cubic ft.)	Production supply (trillion cubic ft.)	Production demand (trillion cubic ft.)	Excess demand over production (continental United States trillion cubic ft.)
1972	26.3	9.8	19.3	23.3	4.1
1973	29.6	12.7	22.1	24.4	2.3
1974	44.1	13.8	25.0	25.4	.3
1975	47.7	15.4	26.0	26.4	.3
1976	51.3	18.3	27.1	27.4	.3
1977	54.9	22.2	28.2	28.5	.3
1978	58.4	25.9	29.5	29.7	.2
1979	62.0	29.9	31.0	31.0	0
1980	65.5	34.6	32.8	32.4	.3

TABLE 4.—THE EFFECTS OF STRICT CONTROLS

Year	Field price on new contracts (cents per Mcf)	Additions to reserves (trillion cubic ft.)	Production supply (trillion cubic ft.)	Production demand (trillion cubic ft.)	Excess demand over production (continental United States trillion cubic ft.)
1972	26.3	9.8	19.3	23.3	4.0
1973	29.6	12.7	22.0	24.3	2.3
1974	30.5	13.8	22.8	25.6	2.8
1975	31.3	15.2	23.4	26.9	3.6
1976	32.1	16.8	24.0	28.5	4.5
1977	33.0	18.7	24.7	30.3	5.5
1978	33.8	20.8	25.7	32.2	6.6
1979	34.6	23.2	26.7	34.4	7.7
1980	35.5	26.3	28.0	36.9	8.9

Source: Paul W. MacAvoy and Robert S. Pindyck "Alternative Regulatory Policies for Dealing with the Natural Gas Shortage" Bell Journal of Economics and Management Service, Vol. 4, No. 2. Autumn 1973, pp. 489 and 491.

Mr. GRAVEL. Mr. President, price controls of the past 2 dozen years have been accompanied by a steady decline in reserves—output is not being fully "replaced" in the supply line by new reserves—coupled with a huge excess in demand at the regulated prices. The underpricing of domestic natural gas distributors are direct causes of the recent contracts with Algeria and other foreign nations to import liquefied gas—LNG—at prices at least triple those on existing domestic gas contracts. Profs. James Cox and Arthur Wright of the University of Massachusetts earlier this year stated in testimony before the House Ways and Means Committee:

The principal cause of the unseemly situation (the natural gas shortage) is wrongheaded price regulation by the Federal Power Commission which has controlled field contract prices of gas for interstate shipment since about 1955. The FPC has held field prices so low that gas companies have not found it profitable to develop and produce gas for interstate shipment from new domestic reserves. Regulatory agencies at the retail level have transmitted the FPC's underpricing to retail markets by basing rates on field prices plus pipeline charges. . . . "The solution to both the present and future shortages advanced by both industry spokesmen and others not open to conflict of interest, is to deregulate the field price of gas. The major argument for deregulating, aside from doing away with exceedingly cumbersome bureaucratic machinery, is that, on the best available economic evidence, the field prices of natural gas were set by competitive forces before the FPC began fixing prices. . . .

That is a conclusion from two University of Massachusetts professors, who realize that that State as well as the rest of New England and the upper Midwest will be the hardest hit by the natural gas shortage. The estimated shortage that we can anticipate by region, if we adopt strict controls advocated by some, is shown in the following table supplied to the subcommittee by the MIT energy group.

Mr. President, I ask unanimous consent to have printed in the RECORD table 5, showing regional shortages from strict controls.

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

TABLE 5.—REGIONAL SHORTAGES FROM STRICT CONTROLS, EXCESS DEMAND, BY REGION

[Trillions of cubic feet]

Year	West	Northeast	Southeast	North-central	South-central	Total
1977	1.1	1.3	0.9	3.0	0.1	6.2
1978	1.2	1.6	.9	3.4	.2	7.4
1979	1.4	1.8	1.0	3.9	.4	8.5
1980	1.6	2.1	1.1	4.3	.6	9.7

Mr. GRAVEL. Mr. President, since natural gas at the wellhead accounts for only 10 to 15 percent of the cost to the consumer, the price increases at the wellhead which can be expected from deregulating the price of a commodity in short supply would increase consumer prices modestly. In 1972, the average annual gas bill of the residential consumer amounted to $155.73. A recent study by Foster Associates estimated that with deregulation of gas prices, the cost would increase in the short term by $8.30 per year using a 55-cent field market-price assumption and by $10.03 per year at a 65-cent estimate. Over the period to 1980, the increase in residential consumer costs owing to rising field prices would be 2.8 or 3.4 percent per year at the 55 and 65 cent market price assumptions. These price assumptions are consistent with the studies of MacAvoy and Pindyck referred to above.

I believe if Americans were given the choice of paying $10 or $20 more to heat their homes they would gladly pay that price rather than run around looking for hot water bottles, electric heaters, or three pair of heavy underwear.

Unless increased production is made more attractive—by lifting price controls or by direct subsidy—the alternative appears to involve running out of sufficient domestic gas to heat homes and relying

on Soviet or Algerian gas which, besides the risk of interruption, is triple the domestic prices and would still be higher than domestic prices even after deregulation.

In testifying before our subcommittee, Professors MacAvoy and Pindyck reached the following conclusion:

The decade of price ceilings imposed by the Federal Power Commission created 1972–73 shortages of natural gas as great as 10 percent of demand.

The operation of OPEC controls over foreign crude oil, if successful in raising crude prices to the monopoly level, has the effect of raising the demands for domestic gas even more. The most effective long term domestic policy response would be to allow gas prices to increase as well—so as to add to domestic gas production and to eliminate more elastic demanders from the combined oil-gas markets. The simulations reported here establish that this can be done at relatively low domestic gas prices—those on new contracts of 60 to 70 cents per Mcf equivalent at the wellhead to crude oil at $3.60 to $4.20 per barrel.

That is the conclusion of independent experts, without any industry or political ax to grind. They are MIT professors who have done their homework. Natural gas is but one example of how price controls have distorted the efficient allocation of resources. Another example of the importance of prices to energy supply and demand is the case of gasoline.

During the last 2 years, the real price of gasoline has declined almost 8 percent according to Paul McCracken, former Chairman of the Council of Economic Advisors, whose excellent article on rationing against the marketplace, appears as Appendix A. Is there any wonder why we now face a shortage of gasoline? The market price for any commodity must reflect the costs of production and distribution and a reasonable profit expectation.

Recent experience with controls on the price of one produce and no controls on all costs or market substitutes and the subsequent market distortions caused thereby should be enough evidence to question the wisdom of FPC pricing policies. As had been widely reported in the press last summer, controls over the price of chicken but not the cost of feed, led to the drowning of baby chickens. Similarly, controls over the price of gas but not the cost of producing it, prevents a lot of natural gas from being found.

DEFINING THE ROLE OF THE PUBLIC AND PRIVATE SECTOR

The urgent task confronting the Congress and the executive branch is to define the respective roles of the public and private sectors in carrying out a national energy policy. In the past, government has sought to intervene unreasonably in the marketplace, and today we are suffering the consequences. In the future, we must be certain that government and industry each perform the roles for which they are best suited. The proper function of government is not to thwart or supplant free market forces, but to supplement them, to give them direction, and when necessary and desirable, to extend their reach.

Clearly there are functions, such as long term energy research, which are best carried out under government sponsorship. Just as clearly, there are functions, such as energy production, for which the private sector is best suited.

Both the Congress and the Executive need to define more clearly and realistically the respective tasks confronting our government and our private sector. We must appreciate the interrelationship which exists among various forms of energy. And, we must work harder to coordinate and consolidate our many diverse and often contrary national priorities. Above all, we must develop a comprehensive and consistent national energy policy, a policy which recognizes the essential role of energy in our national life and which is directed at making adequate supplies of safe and clean energy available for our people.

TRADE POLICY AND NEAR ENERGY SELF-SUFFICIENCY

Given the economic and political facts of life and the importance of energy to our national economy and security, a "free trade" philosophy in energy is simply contrary to the goal of achieving near energy self-sufficiency. With over 63 percent of the proven free world crude oil reserves in the Middle East and much lower extraction costs in that area of the world, a free trade philosophy in oil will result in the decimation of the U.S. domestic industry and a reliance on extremely insecure sources of supply. Recent experience demonstrates the folly of becoming dependent on foreign oil. Ever since 1947 the Congress has expressed its concern over becoming excessively dependent on insecure foreign sources of supply for a vital raw material such as oil. A history of this concern is described in Appendix B, including a magnificently far-sighted speech in 1959 by the chairman of the Committee on Finance (Mr. LONG).

The embargo by the oil exporting Arab countries in November finally brought home what so many Members of Congress, including Senators LONG, SYMINGTON, ROBERT C. BYRD, and others still in this body, had warned against for so many years.

If we want to have a secure source of domestic energy we are going to have to pay more for our consumption and we are going to have to protect the industry against excessive imports. It is just that simple.

It should be clear now that foreign sources of petroleum cannot and should not be relied upon to satisfy any significant portion of U.S. energy needs. We should have listened to the warnings that were raised all during the fifties and sixties.

Instead of heeding this advice we went in the opposite direction. We began to view the oil industry as a bunch of robber barons out to take the American public for a ride. So we proceeded to dismantle the oil import program, cut the depletion allowance, place price controls, bring antitrust suits, stop offshore drilling and a whole host of other measures to cripple industry efforts to bring on domestic sources of supply. The 1969 Tax Reform Act alone cut the capitalization of the oil industry by $500 million, which is paid by the consumer today. As a result, two things happened: we drove many of the independents out of business and encouraged the majors to invest abroad and in real estate and other ventures totally unrelated to oil. As a result, oil companies are today becoming conglomerates—the "oil business" is almost a dirty word in American politics. Now the talk is to set up a Government-owned oil company to do the job that privately owned companies allegedly cannot do. Well, if anybody has any faith that the bureaucrats in Washington can run an oil business, he is, at best, naive.

SUMMARY OF THE BILL

The bill I am introducing today would give us such a national energy policy and commit us on the road to energy independence. At the center of the "Energy Revenue and Development Act of 1973," is a proposal to create an energy trust fund financed with the revenues of a tax on all fossil fuels produced or imported into the United States. This fund would raise $50 billion over a 10-year period. Initially, a tax of 4.1 cents per million Btu would be levied at the source of production or importation. Thereafter, the tax would increase gradually until a maximum rate of 6.5 cents per million Btu is reached in 1978. From 1978 until 1985 the tax would be decreased gradually per year until a tax rate of 2.8 cents per million Btu is reached. To give some idea of what this would mean in terms of a barrel of oil or a ton of coal or a trillion cubic feet of gas, Dr. Warren Donnelly of the Library of Congress, who gave us invaluable assistance in computing the tax schedule, estimated that at 5 cents per million Btu—which is ½ cent higher than the average rate of tax in the bill—the increase in a crude barrel of oil would be 29 cents, a short ton of coal, $1.20, and a thousand cubic feet of natural gas, 5 cents.

The estimated revenues from the tax are shown below:

Mr. President, I ask unanimous consent to have printed in the RECORD table 6 showing estimated income from energy tax, 1974 to 1985.

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

TABLE 6.—ESTIMATED INCOME FROM ENERGY TAX, 1974–85

Year	Estimated national energy input [1] quadrillion Btu (10^1)	Proposed tax rate (cents per million Btu)	Tax income (billion)
1974	77.7	4.1	$3.2
1975	80.3	4.5	3.6
1976	83.4	5.2	4.3
1977	86.0	5.9	5.1
1978	89.0	6.5	5.8
1979	92.0	5.9	5.4
1980	96.0	5.2	5.0
1981	97.8	4.5	4.4
1982	100.6	4.1	4.1
1983	103.5	3.4	3.5
1984	107.2	2.8	3.1
1985	116.6	2.2	2.5
Total			50.0

[1] Walter G. Dupree and James A. West. United States Energy Through the Year 2000. Department of the Interior, 1972, p. 7; for the years 1975, 1980, 1985. Other yearly values by graphical extrapolation.

Mr. GRAVEL. Mr. President, the revenues from this energy tax would be placed in an energy trust fund administered by a Federal Energy Administration. As with other Federal trust funds, the Secretary of the Treasury would serve as trustee and would be empowered to invest the fund receipts in U.S. Government securities.

The Federal Energy Administration (FEA) would oversee the formulation of a national energy policy and undertake a national program of energy development. Energy functions currently carried on by the Departments of Interior, Transportation, Commerce, and other agencies would be transferred to the FEA. The Federal Energy Administration would plan for the intelligent and environmentally sound development of U.S. fossil fuel resources and the bringing on stream for commercial uses the unconventional forms of energy—solar, geothermal, tidal, nuclear, fusion, et cetera. The agency could provide loan guarantees to the private sector to develop such resources as shale oil, coal gasification and liquefaction.

In order to bring about energy production and development in the most effective way possible, the FEA would be authorized to enter into contracts with private persons for research and development and the exploration and drilling of public lands. These contracts would include provisions for loan guarantees, where appropriate, purchase agreements for energy resources discovered or produced. These contracts would also contain provisions imposing an excess profits tax to recapture corporate profits exceeding 20 percent, when they are not plowed back into the business.

Another feature of my bill, which I believe merits careful consideration, is a provision which creates an independent Commission of Energy Technology Assessment (CETA).

This office, which would be composed of 21 eminent scientists, engineers, and economists would establish standards and goals for the research and development being conducted under the sponsorship of the Federal Energy Administration. The CETA would also prepare cost/benefit analyses, evaluate alternative forms of energy, and project our energy needs in the future and how these needs can most effectively be met. It would critically evaluate all the publicly financed research and development efforts and be a kind of watchdog to protect the taxpayers' money from being wasted on ill-conceived projects. It would enter into contracts with private nonprofit institutions—educational institutions and research centers—to perform adversary studies on publicly financed programs and on the efforts of the private sector.

The Energy Revenue and Development Act of 1973 would also phase out, over a period of one year, price controls on crude oil and petroleum products, price ceilings on new natural gas, and on existing gas as the contracts come due.

Elimination of price controls would be coupled with an excess profits tax to insure there is no rip off by the producers or by anyone contracting with the Federal Energy Administration, and that the moneys are put back into the search for new energy resources.

FOUR BASIC OPTIONS

There are basically four basic approaches to resolve the energy shortage and they are not necessarily mutually exclusive.

THE INCENTIVE OPTION

One option is to provide tax or other incentives to produce and deliver energy supplies. Tax incentives tend to decrease price and stimulate supply (and, because of the lower prices, also demand).

CONSERVATION TAXES

Another option is to tax production or consumption. This option could dampen demand by increasing price. Its effect on supply depends on whether the moneys collected are invested in the search for new energy sources.

RATIONING

A third option is to adopt rationing. This would force a decrease in demand, but does not increase supply. It could lead to a "black market" or a "white market" for the ration tickets depending on how it is managed. I think the preference of all of us in this body would be a white market, if we had to go to the rationing route for a period of time. But again rationing does nothing to increase supply which is what we need to do to become energy independent.

FREE MARKET

A final option is to let the market itself allocate scarce resources. In the short run this will increase price and reduce demand. With increased prices, there will be an incentive by the producers to invest in new supply. As this happens prices will settle out at an equilibrium level. This is by far the best long-term option. It is based on the economic theories that have worked in the capitalistic system for centuries.

Ultimately, in a shortage situation prices will increase under any system. But if we let the market work we will encourage the enormous volume.

Unlike Europe and Japan, the United States has relatively great amounts of energy resources which have not been developed to anywhere near their potential. If these resources are to be developed, it will be necessary to allow market forces to operate so that the relative prices of the competing fuel sources will be high enough to permit the economically feasible development of such sources. Given this current scarcity, it is reasonably clear that market forces will bring about sufficient price increases to promote the development of these additional methods for supplying energy, such as crude oil, coal, liquefaction, gasification, oil shale, and so forth. It is also reasonably clear that the prospective price increases would be sufficient to begin to encourage the great amount of capital which will have to be invested in the industry in order to discover, develop, and produce the required fuels.

According to several experts I have talked to, a price of $7 per barrel for crude oil would be adequate to enable the industry to develop sufficient alternative sources of fuel to meet much of the Nation's needs. In terms of gasoline for instance, this $7 price would translate into a price increase of approximately 10 cents per gallon at the pump. This is a reasonable price increase, and the consumer would most likely be willing to pay such prices in order to be able to have the fuel that he needs.

On the other hand, the industry will not be willing to spend the billions of dollars which would be required to develop these new methods for providing energy unless it can be sure that the price will remain at levels high enough for the long period of time required to develop these new methods.

Given this need to maintain appropriate domestic prices, I have proposed in my bill the creation of a variable levy system. The levies would be essentially the difference between prevailing domestic prices and the price of imported petroleum. At present, with foreign crude oil selling at higher than domestic prices there would be no levy. However, with a "lifting price" or extracting cost as low as 13 cents per barrel for Saudi Arabian sweet crude, there is always the possibility that Saudi Arabia and other Arab countries could set prices well below prevailing domestic prices so as to insure that the United States would never be able to develop major new supplies of energy resources. The variable levy system itself would be structured somewhat along the lines of the system utilized by the European Community in its common agricultural policy (CAP).

The second trade measure in my bill would establish a quota of 5 percent on imports from nations that embargo their shipments to the United States. These Arab nations have demonstrated convincingly that we cannot depend on them. The import licenses for their oil would be auctioned off to the highest bidder. This would bring in additional revenues to the Federal Government and avoid the bureaucratic machinery and favoritism that characterized the oil import program.

TAX INCENTIVES FOR DOMESTIC DRILLING

The subcommittee took testimony from a number of experts on the energy situation and it became apparent that providing foreign depletion allowances and intangible drilling expenses in countries which embargo shipments of oil to the United States makes little sense. It also may not make much sense to provide a foreign tax credit in those instances.

Senators RIBICOFF and MONDALE have introduced legislation which would effectively end these tax incentives for income and expenses in those countries which embargo oil shipments to the United States. These proposals should be seriously considered.

My own proposal would end the foreign depletion allowance prospectively, as well as intangible drilling expensing on foreign production. That seems to be equitable to existing investments and also tells our corporations: "Look, we need your capital back home to invest in our own massive energy resources." My proposal does not affect the foreign tax credit, which is a very complex area, and there are good arguments for avoiding double taxation by retaining the credit.

In addition, I believe that for the foreseeable future we will have to adopt some kind of additional fiscal incentive to encourage domestic drilling and exploration in the United States. Accordingly, I have in my bill a 14-percent investment tax credit for the costs of new drilling, new refinery capacity, and the costs in transporting, storing, and distributing all sources of fossil fuel energy—coal, gas, and oil.

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

Mr. GRIFFIN. Mr. President, I ask unanimous consent that I may be permitted to yield 5 minutes of my time to the Senator from Alaska.

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

Mr. GRAVEL. In the long run, I believe the free market is the best incentive for encouraging investment. However, in the short run, we may need to adopt a tax credit for domestic investment in our own resources. This will tend to keep prices lower than they would otherwise go and also attract capital into these ventures.

INFRASTRUCTURE SHORTAGE—STEEL PIPE, DRILLING EQUIPMENT, RIGS, ET CETERA

It also became apparent during our hearings that there is a serious shortage of equipment needed to explore for new domestic sources of oil and gas. I am referring to such materials as steel pipe, rigging equipment, casting, drills, and the like. This shortage is to a large extent the result of Government price controls and import restraints on these products. Accordingly, my bill would direct the President to remove price controls on these products and any others in short supply that are needed in the exploration, extraction, and transportation of petroleum and petroleum products and natural gas. It would also direct the President to inform those foreign nations that are restraining their exports of these products to the United States to remove these voluntary export restraints.

U.S. NEGOTIATOR AND A CONSUMERS UNION

There are several other aspects of the energy problem that must be considered. The producer countries have a very formidable cartel—OPEC—which in a sellers market is driving petroleum prices out of sight. To counter this producers union, two things are necessary.

First, we must appoint a high level Government official to negotiate on price, instead of having the producing nations pick off one private company after another and use salami tactics to drive the prices through the roof. Thus, my bill would direct the Energy Administrator to be the negotiating arm of the United States in dealing with the producing nations.

Second, one consuming nation, just like one private company, cannot be in a strong bargaining position if the other consuming nations capitulate to the producers cartel demands. Thus we need a "consumers union" of importing countries which will bargain collectively with the producing nations. I understand that because of the relative difference in dependencies, other consuming nations are not very interested in this approach. As an incentive to them, I would suggest that we deny any consuming nation most-favored-nation treatment in our market unless they join us in the consumers union. That is strong medicine, but this is such a serious problem, the medicine is needed.

I hope this suggestion will not be misinterpreted within the Arab community. It is a constructive suggestion. They are pursuing their policies and goals for their own best self-interest. Certainly they are entitled to do that; but as occurs many times in the actions of nations, things can get out of hand. They have an organization, which is not a monolith, but certainly permits them to act in some degree of unison. They think this is in their interest.

I think it would be in our best interest to act similarly, in unison as consuming nations. Collectively it would be in the best interests of all nations, the producing and the consuming nations, to have a consumers' union. Then we would have a vehicle to clear disagreements and to negotiate on an even basis. Such a vehicle would assure a reasonableness which might not otherwise be present; the alternative would be a recourse to violence.

So I would hope this suggestion would be looked upon as a constructive proposal to handle problems that will inevitably occur in the future.

In conclusion, Mr. President, I wish to emphasize to my colleagues that the Energy, Revenue, and Development Act of 1973 offers a comprehensive approach to this country's energy problems by increasing our supply of safe, clean energy. It is designed to help bring about near energy self-sufficiency by 1985. It would lead us to national energy policy and program and commit our country to the task of developing our indigenous fossil fuel resources as well as alternative sources and systems of energy including coal gasification and liquefaction, solar, geothermal, and others. It is the intention of the Subcommittee on Energy to hold hearings on this bill shortly in the week of January 14. I invite all interested parties to submit comments for the record of those hearings. I urge my colleagues to give this bill their careful attention, and I certainly welcome their support.

Mr. President, I ask unanimous consent that appendixes be included in the RECORD along with my remarks. I also ask unanimous consent that speeches made in prior years, which I have here from prior CONGRESSIONAL RECORDS, also be inserted in the RECORD. I think these statements demonstrate, from the historical point of view, that an awareness of the problem did exist in the Congress. A proper definition of the problem did exist at an earlier time, but, for some reason, we did not heed the warnings of those in this body concerned with becoming overly dependent on foreign supplies for a vital raw material.

I hope we will have the wisdom and good sense to realize these errors and chart a course that will be in the best interests of this Nation and, I think very sincerely, in the best interests of all human beings on this planet.

The PRESIDING OFFICER. Without objection, the several requests are agreed to.

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

APPENDIX A

COUPON BOOK ECONOMICS

(By Paul W. McCracken)

During the weeks immediately ahead decisions will be made about energy that will in quite fundamental ways shape not only our economy but also the future course of American life. And there is an uncomfortably high probability that we shall set ourselves on a course of action that will be difficult to reverse and bitterly regretted.

That we confront a difficult energy problem is clear enough. We are consuming oil at the rate of just over 17 million barrels per day. Domestic production is about 11 million and not rising. Directly and indirectly roughly one-third of the six million that must be imported has been coming from the embargo area. The annual growth in demand could be expected to add roughly another million barrels per day to our requirements, and this also would in the normal course of things have come from the Persian Gulf because that is where the oil is.

This confronts us with a tough problem, one whose gravity is not to be minimized. Looking toward the year ahead we have a shortfall in probable petroleum supply of 15% to 20% relative to normal demand, and oil and gas in turn supply roughly half of our energy requirements. When we remember that a spot shortage at one point can have domino effects in other directions, the large potential that this shortage has for disorganizing our economic life becomes apparent. But for a nail . . . some kingdoms can be lost.

What should our energy programs do for us? What are the guidelines for determining what we should do and should not do? Precisely because the problem is so urgent we need to take time enough to perceive the longer run consequences of our short run actions. We have this problem of energy today in part because we did not take time a few years ago to think through the longer range results of some immediate actions. In a seizure of evangelical fervor, for example, we charged mindlessly ahead on some environmental standards that were clearly building up requirements for oil and gas which could not be met even before the Mideast war. The result of this theologization of environmental programs, which tended to treat questions about consequences almost with contempt or as sin, is that as these painful consequences now become more apparent the perfectly good cause of having regard for our environment is threatened with being discredited. If so it will have hard going to recover support from a public understandably suspicious because of having been burned once.

There will in this urgent energy problem again be a tendency to act as if the problem is so urgent that we must mount our steed and ride instantly off at top speed without even taking time to make sure that we are headed in the right direction.

SOME SOCIAL VALUES

Efforts at voluntary conservation are, of course, commendable. There are even social values to be derived at these joint efforts for the common good. And there can be no doubt that habits about energy use, reflecting quite rational responses to cheap energy prices (and not, as some comments seem to suggest, a new variant of original sin), have led to some uses that can readily be curtailed. Indeed, it is possible that something approaching half of our shortfall could be taken up by such careful using of energy more sparingly.

Rationing commends itself to many as the way to handle the remainder of the job. It

seems fair because "everybody would be treated alike."

If we do go into rationing, certain predictions can confidently be made. One is that what starts out as "treating everybody alike" will be a program that each citizen is sure is discriminating against him. For one thing there is infinite variation in people's situations. Giving everybody X gallons per week, or even everybody in Z category X gallons, will be just fine for the inactive family whose car spends most of its time getting dusty in the garage; and it might be lethal for the active family using the car for all manner of things. There is a way to use this enormous variation in individual situations, but more of that later.

The result is that a rationing program in practice would waste gasoline and oil because simplistic and across-the-board rules, inevitable in such a broadside program, would put substantial amounts of these scarce products into the hands of those for whom the need would be of secondary urgency.

A more unfortunate aspect of rationing would be its adverse effect on public morality. If there is one lesson to be drawn from experience with these programs it is that black markets would flourish. Thus those with "flexible" standards of morality, or who have political pull, or who can work some other angle will do relatively well, while the ordinary decent citizen will wind up with the dry gasoline or oil tank. Economies that are managed by license and edict and coupon books are also economies with pervasive corruption and graft. This is no accident. Those possessing the authority to grant favorable decisions possess something of great value, and there will be growing numbers who are willing to pay the price. All they will need to do is look around them to conclude that almost "everybody does it."

The major weakness of the rationing approach is that it slows down the process of curing the problem. Businesses inevitably will be reluctant to commit capital for products that are to be sold in a rationed market. It is one thing to bet one's ability to match wits with market forces and quite another to bet against the vagaries of government decisionmaking.

Rationing, which starts out as a holding action during a shortage, will incalculably prolong the shortage.

Another approach for dealing with the shortage is the imposition of a stiff tax on gasoline and fuel oil. This would be vastly superior to rationing. It encourages every user to examine his own unique and peculiar combination of circumstances for ways to use scarce, high-priced products more sparingly. There is the usual skepticism about whether a higher price would have much effect, but the limited factual evidence available suggests that with something like a 20-cent-per-gallon tax on gasoline the shrinkage in use would bring demand into balance with limited supplies even with the absence of Mideast oil. And this would "treat everybody alike" in the meaningful sense that the intensity of pain for the last gallon given up in each case would be more nearly equal for all people than with rationing. It would use these scarce resources more efficiently.

This tax approach has two drawbacks. One is that an increase in price would hit lower income groups harder than those with high incomes. This is less certain than seemingly obvious. A lower income family (e.g., a retired couple) may find it easy to avoid the problem by curtailing use while a family with a larger income and less ability to cut usage will feel the bite. Moreover, there are far more effective ways directly to take care of society's quite legitimate concern about income distribution than to paralyze the pricing system. In this specific case, for example, we could have a rising deduction from income taxes going down the income scale with the credit payable in cash if it exceeded the income tax liability. The better approach, of course, would be to have a full-scale income maintenance program.

The more serious though less obvious drawback of the tax approach is that it does nothing to cure the fundamental need for enlarging our supply capability. It uses the pricing system to ferret out usages of secondary importance, but it does not use the pricing system to make a commitment of capital into energy production more profitable. Thus it would be a policy to allocate scarcity but not to eliminate it.

This leads to the third approach. Ever since the pricing system was invented, there has been a way to handle the shortage while fundamental forces are being set to work to correct it. What Americans most need now is enough clear-headedness at both ends of Pennsylvania Avenue so that higher prices for energy can start to get us more oil and gas. This will mean higher profits for the energy companies, but the U.S. Treasury will be a majority participant in the increased profits.

Here we do need to keep some specific facts in perspective. During the last decade the real retail price of gasoline excluding taxes (i.e., this price adjusted to allow for changes in the value of the dollar generally) declined 8% and during the last two years the real price of gasoline has declined almost 8%. A change in the ever more bargain basement character of these prices was about due in any case.

Of the three ways to regain balances between demand and more limited supplies, an outright higher price would be most effective, and rationing at the outset would be most attractive (and, in the end, most disappointing). We have, therefore, a good chance that within the next few months rationing of gasoline and fuel oil will be adopted. Is there anything that can be done to minimize its perverse effects? Not much. Rationing, particularly peacetime rationing, almost inherently works badly and encourages black-marketeering, corruption, and waste.

AVOIDING A BLACK MARKET

One modification of the rationing system would, however, be helpful if the political process insists on going down that road. That would be to allow gasoline coupons to be freely bought and sold. In this way gasoline would be utilized for the most urgently felt needs. There would more nearly be equal sacrifice "at the margin." There would be no black market. And demand for gasoline would still be held in the aggregate to supplies available if the right total amount of coupons had been issued.

After this system operated for a while, we would begin to perceive that what we had was a free market for gasoline plus a slightly disguised income redistribution program. It might then occur to us that we should have a straightforward income distribution program plus the straightforward superiority of the price system in free and open markets to handle the economy's allocations function.

If we could be sure of that result, a bout with rationing would almost be tempting.

APPENDIX B

HISTORY OF CONGRESSIONAL CONCERN OVER EFFECT OF OIL IMPORTS ON NATIONAL SECURITY

The Congress has long recognized the need for preserving a healthy petroleum industry in the United States. On January 31, 1947, the Special Committee Investigating Petroleum Reserves, set up by the Senate, concluded as follows:

"In the final analysis the reserves within our own borders are more likely than not to constitute the citadel of our defense.

"It follows that nothing should be done to weaken the productive capacity of domestic reserves, and that every possible step should be taken to increase these reserves and continuously to develop them to such a degree as would occasion no regret in the event of war." The Committee's report went on to say: "This Nation now faces two alternatives:

"Either—

"1. To await with hope the discovery of sufficient petroleum within our boundaries that the military requirements of the future will occasion no concern, and in the meantime to depend upon foreign oil and trust that war will not cut off our imports;

"Or—

"2. To take steps to guarantee a dometic petroleum supply adequate for all eventualities by means of:

"(a) Incentives to promote the search for new deposits of petroleum within the boundaries of the United States and in the continental shelf; and

"(b) The continuation of the present program looking to the manufacture of synthetic liquid fuels to supplement our domestic crude supply.

"All the facts before us impel the choice of the second alternative."

That was back in 1947. Congress continued to be concerned with the effect of imports of foreign oil on the national security during the 1950's.

In 1954, the Congress again expressed its concern over the effect of lowering import barriers on the industry.

Section 2 of the Trade Agreements Extension Act of 1954 provided that no action was to be taken "to decrease the duty on any article" if the President found that such reduction "would threaten domestic production needed for projected national defense requirements." This amendment was added on the Senate floor after the one-page 1954 Trade Extension Act had passed the House and had been approved by the Senate Finance Committee without amendment.

The section 2 amendment was proposed by Senator Symington and passed the Senate the following day. In the Congressional Record, the Senator briefly expressed his reasons for offering the amendment:

"I plan to offer an amendment, which in effect would require testing tariff decreases against defense requirements.

"I believe it should be mandatory for the administration to make certain that no tariff should be reduced, whenever such reduction would threaten continued domestic production necessary to meet our projected defense requirements.

"I refer to articles identifiable as necessary for national defense."

In 1955, the Congress adopted the Senate Finance Committee's national security amendment to the Trade Agreement Extension Act, which read as follows:

"In order to further the policy and purpose of this section, whenever the Director of the Office of Defense Mobilization has reason to believe that any article is being imported into the United States in such quantities as to threaten to impair the national security, he shall so advise the President, and if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made to determine the facts. If, on the basis of such investigation, and the report to him of the findings and recommendations made in connection therewith, the President finds that the article is being imported into the United States in such quantities as to threaten to impair the national security, he shall take such action as he deems necessary to adjust the imports of such articles to a level that will not threaten to impair the national security."

On April 23, 1957, upon review of the oil

import situation and projected increases in oil imports, the Director of the Office of Defense Mobilization "advised the President pursuant to section 7 of the Trade Agreements Extension Act of 1955, that he had reason to believe that crude oil is being imported into the United States in such quantities as to threaten to impair the national security."

On July 29, 1957, President Eisenhower approved a Special Cabinet Committee's report establishing what became known as the "Voluntary Oil Import Program".

MANDATORY OIL IMPORT PROGRAM—1959

This voluntary program continued in operation until March 10, 1959, at which time the President established the mandatory oil import program. In contrast to the voluntary program which covered only crude oil imports, the mandatory oil import program covered imports of crude oil and its products and derivatives.

The Mandatory Program was established after the Director of the Office of Civil and Defense Mobilization, in his memorandum for the President quoted the Secretary of Commerce as follows:

"It is my considered opinion that the present rate of imports of crude oil and its derivatives and products is a major contributing factor in the decline in drilling operations both for exploration and development in the search for new oil reserves . . . Continuation of this trend will inevitably result in lowering of our available reserves."

The Mandatory Oil Import Program (MOIP) is an example of a trade-related program which was conceived to achieve one purpose—to protect a domestic industry deemed vital to the national defense—but whose implementation was fraught with special favors and exemptions. In some respects changed economic circumstances dictated the constant evolution of the program. But in other respects the program bordered on scandalous and silly exemptions.

Critics began to attack the program with increasing force in the late 1960's, feeling that the solution to the United States oil problem was simply to abandon import controls. They, like most other Americans, failed to perceive that once this nation became dependent on foreign sources for a vital raw material it would be a sellers' market and the imported oil would no longer be cheap.

As the program was unraveled and finally abandoned, U.S. imports shot up dramatically, both in volume and value. With a seller's market prices more than doubled, the volume of imports rose by more than 50 percent between 1971 and 1973, while the value increased by more than 100 percent.

APPENDIX C

EXPLORATION (GEOPHYSICAL CREW ACTIVITY, ACREAGE UNDER LEASE, WILDCAT WELLS DRILLED)

Year	Crew months worked	Total acres leased Jan. 1 (thousands)	Wildcat wells		
			Total	Dry	Percent dry
1953	8,675	NA	13,313	10,633	79.9
1954	7,969	315,568	13,100	10,389	79.3
1955	8,240	NA	14,942	11,832	79.2
1956	7,857	383,863	16,207	13,118	80.9
1957	7,242	NA	14,714	11,904	80.9
1958	5,731	371,146	13,199	10,632	80.6
1959	5,696	382,607	13,191	10,577	80.2
1960	5,207	424,251	11,704	9,515	81.3
1961	5,024	416,871	10,992	9,022	82.1
1962	4,231	408,870	10,797	8,815	81.6
1963	4,174	387,457	10,664	8,686	81.5
1964	4,406	372,408	10,747	8,951	83.3
1965	4,471	375,306	9,466	8,050	84.6
1966	3,835	350,895	10,313	8,705	84.4
1967	3,496	333,858	8,878	7,368	82.9
1968	3,390	325,106	8,806	7,439	84.5
1969	3,259	332,005	9,701	8,001	82.5
1970	2,521	343,213	7,693	6,422	83.5
1971	2,760	332,647	6,922	5,834	84.3
1972	NA	350,725	7,539	6,254	83.0

DRILLING (ROTARY RIGS ACTIVE AND TOTAL WELL COMPLETIONS)

Year	Rigs active	Total well completions				
		Oil	Gas	Dry	Service	Total
1953	2,613	25,762	3,806	18,449	1,262	49,279
1954	2,509	29,773	3,977	19,168	1,012	53,930
1955	2,687	31,567	3,613	20,742	760	56,682
1956	2,619	30,730	4,543	21,838	1,049	58,160
1957	2,429	28,612	4,626	20,983	1,409	55,024
1958	1,923	24,578	4,803	19,043	1,615	50,039
1959	2,074	25,800	5,029	19,265	1,670	51,764
1960	1,746	21,186	5,258	17,574	2,733	46,751
1965	1,763	21,101	5,664	17,106	3,091	46,962
1962	1,637	21,249	5,848	16,682	2,400	46,179
1963	1,501	20,288	4,751	16,347	2,267	43,653
1964	1,502	20,620	4,855	17,488	2,273	45,236
1965	1,388	18,761	4,724	16,025	1,922	41,432
1966	1,270	16,780	4,377	15,227	1,497	37,881
1967	1,134	15,329	3,659	13,246	1,584	33,818
1968	1,170	14,331	3,456	12,812	2,315	32,914
1969	1,195	14,368	4,083	13,736	1,866	34,053
1970	1,038	13,020	3,840	11,260	1,347	29,467
1971	975	11,858	3,830	10,163	1,449	27,330
1972	1,107	11,306	4,928	11,057	1,464	28,755

DISCOVERIES (NEW RESERVES ADDED)

Year	Liquid Hydrocarbons (million barrels)			Natural gas (trillion cubic feet)	Crude oil per new oil well (barrels)	Natural gas per new gas well (million cubic feet)
	Crude oil	Gas liquid	Total liquids			
1953	3,296	744	4,040	20.9	127,940	5,480
1954	2,873	107	2,980	9.6	96,496	2,423
1955	2,871	515	3,386	22.0	90,949	6,085
1956	2,974	810	3,784	24.8	96,778	5,470
1957	2,425	137	2,562	20.2	84,755	4,364
1958	2,608	858	3,466	19.0	106,111	3,946
1959	3,667	703	4,370	20.8	142,131	4,132
1960	2,365	725	3,090	14.2	111,630	2,696
1961	2,658	695	3,353	17.3	125,965	3,059
1962	2,181	733	2,914	19.6	102,640	3,359

DISCOVERIES (NEW RESERVES ADDED)—Continued

Year	Liquid Hydrocarbons (million barrels)			Natural gas (trillion cubic feet)	Crude oil per new oil well (barrels)	Natural gas per new gas well (million cubic feet)
	Crude oil	Gas liquid	Total liquids			
1963	2,174	878	3,052	18.4	107,156	3,877
1964	2,665	609	3,274	20.4	129,243	4,212
1965	3,048	832	3,880	21.5	162,464	4,545
1966	2,964	894	3,858	20.4	176,638	4,650
1967	2,962	930	3,892	22.0	193,228	6,000
1968	2,455	686	3,141	13.8	171,306	3,998
1969	2,120	281	2,401	8.5	147,550	2,082
1970 [1]	3,089	308	3,397	11.6	237,250	3,021
1971 [1]	2,318	347	2,665	10.1	195,480	2,637
1972 [1]	1,558	238	1,796	9.8	137,803	1,987

[1] Excludes 9.6 billion barrels of crude oil and 26 trillion cubic feet of natural gas added for Alaskan North Slope.

PROVED RESERVES (LIQUID HYDROCARBONS AND NATURAL GAS)

Dec. 31st	Liquid hydrocarbons (million barrels)			Natural gas (trillion cubic feet)	Reserve/production ratio		
	Crude oil	Gas liquids	Total liquids		Crude oil	Total liquid	Natural gas
1953	28,945	5,438	34,383	210.3	12.5	13.2	22.9
1954	29,561	5,244	34,805	210.6	13.1	13.6	22.5
1955	30,012	5,439	35,451	222.5	12.4	12.8	22.1
1956	30,435	5,902	36,337	236.5	11.9	12.5	21.8
1957	30,300	5,687	35,987	245.2	11.8	12.4	21.4
1958	30,536	6,204	36,740	252.8	12.9	13.5	22.1
1959	31,719	6,522	38,241	261.2	12.8	13.3	21.1
1960	31,613	6,816	38,429	262.3	12.8	13.2	20.1
1961	31,786	7,049	38,835	266.3	12.6	13.0	19.9
1962	31,389	7,312	38,701	272.3	12.3	12.8	20.0
1963	30,970	7,674	38,644	276.2	11.9	12.4	19.0
1964	30,991	7,747	38,738	281.3	11.7	12.2	18.3
1965	31,352	8,024	39,376	286.5	11.7	12.1	17.6
1966	31,452	8,329	39,781	289.3	11.0	11.5	16.5
1967	31,377	8,614	39,991	292.9	10.3	10.9	15.9
1968	30,707	8,598	39,305	287.4	9.8	10.3	14.8
1969	29,632	8,143	37,775	275.1	9.3	9.6	13.3
1970 [1]	29,401	7,703	37,104	264.7	8.8	9.1	12.1
1971 [1]	28,463	7,304	35,767	252.8	8.7	8.9	11.5
1972 [1]	26,739	6,787	33,536	240.1	8.1	8.3	10.7

[1] Excludes 9.6 billion barrels of crude oil and 26 trillion cubic feet of natural gas added for Alaskan North Slope.

PRODUCTIVE CAPACITY (CRUDE OIL AND NATURAL GAS LIQUIDS)

[In thousands of barrels daily]

Dec. 31	Productive capacity			Crude oil capacity		
	Crude oil	Gas liquids	Total	Yearly change	Spare	Percent spare
1953	7,926	744	8,670	----------	1,583	20.0
1954	8,442	778	9,220	+516	1,635	19.4
1955	8,929	825	9,754	+487	1,778	19.9
1956	9,250	850	10,100	+321	2,080	22.5
1957	9,493	880	10,373	+243	2,783	29.3
1958	9,656	930	10,586	+163	2,603	27.0
1959	9,708	967	10,675	+52	2,673	27.5
1960	9,892	1,041	10,933	+184	2,709	27.4
1961	10,081	1,049	11,130	+189	2,749	27.3
1962	10,169	1,090	11,259	+88	2,627	25.8
1963	10,286	1,177	11,463	+117	2,672	26.0
1964	10,534	1,222	11,756	+248	2,730	25.9

PRODUCTIVE CAPACITY (CRUDE OIL AND NATURAL GAS LIQUIDS)—Continued

[In thousands of barrels daily]

Dec. 31	Productive capacity			Crude oil capacity		
	Crude oil	Gas liquids	Total	Yearly change	Spare	Percent spare
1965	10,743	1,281	12,024	+209	2,448	22.8
1966	11,050	1,405	12,455	+307	2,240	20.3
1967	11,218	1,488	12,706	+168	2,122	18.9
1968	11,137	1,586	12,723	−81	1,899	17.1
1969	11,013	1,676	12,689	−124	1,376	12.5
1970	10,794	1,760	12,554	−219	1,331	12.3
1971	10,246	1,789	12,035	−519	692	6.8

OIL SUPPLY (DOMESTIC PRODUCTION AND TOTAL IMPORTS)

[In thousands of barrels daily]

Year	Domestic production			Imports		Total
	Crude oil	Gas liquids	Total	Total	Percent of supply	
1953	6,458	655	7,113	1,034	12.7	8,147
1954	6,343	692	7,035	1,052	13.0	8,087
1955	6,807	772	7,579	1,248	14.1	8,827
1956	7,151	801	7,952	1,436	15.2	9,388
1957	7,170	809	7,979	1,574	16.4	9,553
1958	6,710	808	7,518	1,700	18.3	9,218
1959	7,053	880	7,933	1,780	18.2	9,713
1960	7,035	930	7,965	1,815	18.3	9,780
1961	7,183	991	8,174	1,917	18.7	10,091
1962	7,332	1,021	8,353	2,082	19.6	10,435
1963	7,542	1,098	8,640	2,123	19.4	10,763
1964	7,614	1,155	8,769	2,258	20.1	11,027
1965	7,804	1,210	9,014	2,468	21.1	11,482
1966	8,295	1,284	9,579	2,573	20.8	12,152
1967	8,810	1,410	10,220	2,537	19.4	12,757
1968	9,096	1,503	10,599	2,840	20.6	13,439
1969	9,238	1,589	10,827	3,166	22.1	13,993
1970	9,637	1,660	11,297	3,419	22.7	14,716
1971	9,463	1,692	11,155	3,926	26.0	15,081
1972	9,451	1,729	11,180	4,741	29.8	15,921

TOTAL IMPORTS

[In thousands of barrels daily

Year	Crude oil	Light products	Sub-total	Residual fuel	Total imports	Percent of total domestic production
1953	648	26	674	360	1,034	14.5
1954	656	42	698	354	1,052	15.0
1955	782	49	831	417	1,248	16.5
1956	934	57	991	445	1,436	18.1
1957	1,023	76	1,099	475	1,574	19.7
1958	953	248	1,201	499	1,700	22.6
1959	966	204	1,170	610	1,780	22.3
1960	1,015	163	1,178	637	1,815	22.8
1961	1,045	206	1,251	666	1,917	23.5
1962	1,126	232	1,358	724	2,082	24.9
1963	1,131	245	1,376	747	2,123	24.6
1964	1,198	252	1,450	808	2,258	25.7
1965	1,238	286	1,524	944	2,468	27.4
1966	1,225	316	1,541	1,032	2,573	26.9
1967	1,128	324	1,452	1 085	2,537	24.8
1968	1,290	430	1,720	1,120	2,840	26.8
1969	1,409	492	1,901	1,265	3,166	29.2
1970	1,324	567	1,891	1,528	3,419	30.3
1971	1,681	662	2,343	1,583	3,926	35.2
1972	2,216	783	2,999	1,742	4,741	42.4

TOTAL IMPORTS (BY COUNTRY OF ORIGIN)

[In thousands of barrels daily]

Year	Western Hemisphere				Eastern Hemisphere			
	Canada	Venezuela	Other	Western Hemisphere total	Mideast	Africa	Other	Eastern Hemisphere total
1953	8	451	311	770	226	----------	38	264
1954	8	476	312	796	219	----------	37	256
1955	48	547	344	939	277	----------	32	309
1956	123	638	349	1,170	290	----------	36	326
1957	159	754	353	1,266	244	----------	64	308
1958	87	699	469	1,255	361	9	75	445
1959	161	781	473	1,355	350	5	70	425
1960	122	832	445	1,399	332	5	79	416
1961	193	815	491	1,499	344	7	67	418
1962	250	906	505	1,661	315	31	75	421
1963	265	900	558	1,723	303	31	66	400
1964	299	934	584	1,817	317	54	70	441

TOTAL IMPORTS (BY COUNTRY OF ORIGIN)—Continued

[In thousands of barrels daily]

Year	Western Hemisphere				Eastern Hemisphere			
	Canada	Venezuela	Other	Western Hemisphere total	Mideast	Africa	Other	Eastern Hemisphere total
1965	323	995	651	1,969	360	69	70	499
1966	384	1,018	674	2,076	318	87	92	497
1967	450	937	757	2,144	209	59	125	393
1968	507	886	871	2,204	219	159	198	576
1969	608	875	999	2,482	193	229	262	684
1970	766	990	1,102	2,858	184	127	250	561
1971	857	1,019	1,195	3,071	378	204	267	849
1972	1,108	960	1,331	3,399	473	500	369	1,342

CONSUMPTION

Year	Petroleum demand (thousands of barrels per day)			Percent U.S. energy consumption		
	Domestic	Export	Total	Liquid petroleum	Natural gas (dry)	Tota
1953	7,624	401	8,025	42.7	21.6	64.3
1954	7,784	355	8,139	44.3	23.5	67.8
1955	8,493	368	8,861	43.8	23.1	66.9
1956	8,822	430	9,252	44.4	23.4	67.8
1957	8,860	568	9,428	44.4	24.8	69.2
1958	9,146	276	9,422	45.0	26.5	71.5
1959	9,494	255	9,749	45.3	27.6	72.9
1960	9,807	202	10,009	44.8	28.9	73.7
1961	9,985	174	10,159	44.9	29.0	73.9
1962	10,410	168	10,578	44.6	29.5	74.1
1963	10,753	208	10,961	44.2	29.8	74.0
1964	11,032	202	11,234	43.5	30.3	73.8
1965	11,523	187	11,710	43.6	30.2	73.8
1966	12,095	198	12,293	43.2	30.9	74.1
1967	12,569	307	12,876	43.5	31.3	74.8
1968	13,404	231	13,635	43.8	31.7	75.5
1969	14,148	233	14,381	43.7	32.4	76.1
1970	14,709	259	14,968	44.0	32.8	76.8
1971	15,225	224	15,449	44.4	33.2	77.6
1972	16,366	223	16,589	45.5	32.3	77.8

GAS SUPPLY AND PRICE

Year	Supply (billion cubic feet)				Prices (cents per MCF)	
	Production	Imports		Total	Current cents	Constant 1972 cents
		Total	Percent of supply			
1953	8,397	----------	----------	8,397	9.2	15.2
1954	8,742	----------	----------	8,742	10.1	16.4
1955	9,405	----------	----------	9,405	10.4	16.7
1956	10,064	----------	----------	10,064	10.8	16.8
1957	10,680	38	0.4	10,718	11.3	16.9
1958	11,030	136	1.2	11,166	11.9	17.4
1959	12,046	134	1.1	12,180	12.9	18.5
1960	12,771	156	1.2	12,927	14.0	19.8
1961	13,254	219	1.6	13,473	15.1	21.1
1962	13,877	401	2.8	14,278	15.5	21.4
1963	14,747	406	2.7	15,153	15.8	21.5
1964	15,462	442	2.8	15,904	15.4	20.6
1965	16,040	457	2.8	16,497	15.6	20.5
1966	17,207	480	2.7	17,687	15.7	20.1
1967	18,171	564	3.0	18,735	16.0	19.8
1968	19,322	652	3.3	19,974	16.4	16.9
1969	20,698	727	3.4	21,425	16.7	19.0
1970	21,920	821	3.6	22,741	17.1	18.4
1971	22,493	935	4.0	23,428	18.2	18.8
1972	22,910	1,307	5.4	24,217	19.5	19.5

PRICES

Year	Crude oil at well (per barrel)			Motor gasoline retail (cents per gallon)		
	Current dollars	Constant 1958 dollars	Constant 1972 dollars	Excise tax	Taxes	Total
1953	2.68	3.03	4.42	21.28	7.41	28.69
1954	2.78	3.10	4.52	21.56	7.48	29.04
1955	2.77	3.05	4.45	21.42	7.65	29.07
1956	2.79	2.97	4.33	21.57	8.36	29.93
1957	3.09	3.17	4.63	22.11	8.85	30.96
1958	3.01	3.01	4.39	21.47	8.91	30.38
1959	2.90	2.85	4.16	21.18	9.31	30.49
1960	2.88	2.79	4.07	20.99	10.14	31.13
1961	2.89	2.76	4.03	20.53	10.23	30.76
1962	2.90	2.74	4.00	20.36	10.28	30.64
1963	2.89	2.70	3.93	20.11	10.31	30.42
1964	2.88	2.65	3.86	19.98	10.37	30.35
1965	2.86	2.58	3.76	20.71	10.46	31.17

PRICES—Continued

Year	Crude oil at well (per barrel)			Motor gasoline retail (cents per gallon)		
	Current dollars	Constant 1958 dollars	Constant 1972 dollars	Excise tax	Taxes	Total
1966	2.88	2.53	3.69	21.57	10.51	32.08
1967	2.91	2.47	3.61	22.55	10.60	33.15
1968	2.94	2.40	3.51	22.93	10.78	33.71
1969	3.09	2.41	3.51	23.85	10.99	34.84
1970	3.18	2.35	3.43	24.55	11.14	35.69
1971	3.39	2.39	3.49	25.24	11.24	36.48
1972	3.39	2.32	3.39	24.46	11.67	36.13

PRICE AND COST INDEXES (1967=100)

Year	Wholesale prices			Retail prices		
	Crude oil	Refined products	All commodities	Gasoline (ex. tax)	Gasoline (incl. tax)	All items
1963	98.7	95.1	94.5	89.2	91.8	91.7
1964	98.3	90.7	94.7	88.6	91.6	92.9
1965	98.2	93.8	96.6	91.8	94.0	94.5
1966	98.9	97.4	99.8	95.7	96.8	97.2
1967	100.0	100.0	100.0	100.0	100.0	100.0
1968	100.8	98.1	102.5	101.7	101.7	104.2
1969	105.2	99.6	106.5	105.8	105.1	109.8
1970	106.1	101.1	110.4	108.9	107.7	116.3
1971	113.2	106.8	113.9	111.9	110.0	121.3
1972	113.8	108.9	119.1	108.5	109.0	125.3

Year	Cost indexes (1967=100)			Drilling costs		
	Oil field machinery	Oil well casing	Oil field wages	Total (thousands)	Per well	Per foot
1963	93.3	88.9	89.8	2,302,864	55,023	$12.69
1964	94.8	91.9	90.8	2,427,367	55,820	12.86
1965	95.2	96.2	93.2	2,401,437	60,648	13.44
1966	96.5	96.2	96.3	2,360,740	68,386	14.95
1967	100.0	100.0	100.0	2,299,178	72,902	15.97
1968	106.4	101.2	104.0	2,409,360	81,463	16.83
1969	112.7	104.5	110.5	2,610,671	88,554	17.56
1970	118.4	109.1	117.8	2,578,682	94,885	18.84
1971	122.6	120.7	128.0	2,371,492	94,708	10.03
1972	127.3	128.4	136.7	NA	NA	NA

COMPOSITE VALUE AND PRICE OF OIL AND GAS

Year	Value at wellhead (million dollars)			Natural gas price (per barrel)	Composite price oil and gas (per barrel)	
	Crude oil	Natural gas	Total		Current dollars	Constant 1972 dollars
1953	6,327	775	7,102	0.50	1.83	3.00
1954	6,425	883	7,308	.54	1.86	3.03
1955	6,870	978	7,848	.56	1.86	2.99
1956	7,297	1,084	8,381	.58	1.87	2.90
1957	8,079	1,202	9,281	.61	2.02	3.02
1958	7,380	1,317	8,697	.64	1.94	2.83
1959	7,473	1,557	9,030	.70	1.88	2.70
1960	7,420	1,790	9,210	.76	1.86	2.63
1961	7,566	1,996	9,562	.81	1.88	2.62
1962	7,769	2,145	9,914	.84	1.89	2.60
1963	7,966	2,328	10,294	.85	1.88	2.56
1964	8,017	2,387	10,404	.83	1.84	2.47
1965	8,147	2,495	10,642	.84	1.83	2.41
1966	8,727	2,703	11,430	.85	1.82	2.33
1967	9,375	2,899	12,274	.86	1.87	2.32
1968	9,795	3,169	12,964	.88	1.88	2.24
1969	10,427	3,456	13,883	.90	1.93	2.19
1970	11,174	3,746	14,920	.92	1.97	2.12
1971	11,693	4,097	15,790	.98	2.07	2.13
1972	11,700	4,500	16,200	1.05	2.10	2.10

FINANCIAL DATA

Year	Rate of return (percent)		Exploration and development outlays (Million dollars)		
	U.S. oil companies	All manufacturing companies	Large companies	Independents	Total
1952	11.5	10.3	1,855	1,770	3,625
1953	11.8	10.5	2,014	1,961	3,975
1954	9.8	9.9	2,180	2,120	4,300
1955	10.2	12.6	2,383	2,292	4,675
1956	10.5	12.3	2,621	2,454	5,075
1957	10.1	10.9	2,673	2,427	5,100
1958	7.2	8.6	2,241	1,984	4,225
1959	8.5	10.4	2,455	1,895	4,350
1960	8.8	9.2	2,412	1,788	4,200
1961	8.7	8.9	2,417	1,583	4,000
1962	8.8	9.8	2,848	1,577	4,425
1963	9.8	10.3	2,452	1,673	4,125
1964	10.1	11.6	2,817	1,633	4,450
1965	11.3	13.0	2,847	1,363	4,210
1966	12.3	13.4	2,990	1,260	4,250
1967	12.6	11.7	3,212	1,153	4,365
1968	12.2	12.1	4,087	1,303	5,390
1969	10.9	11.5	3,768	1,482	5,250
1970	9.9	9.3	3,119	1,656	4,775
1971	9.3	9.7	2,740	1,160	3,900
Average 1952–71	10.2	10.8	2,707	1,727	4,434

APPENDIX D

ADDRESS BY RUSSELL B. LONG ON MARCH 26, 1959, ON THE MANDATORY OIL IMPORT PROGRAM—MANDATORY CONTROL OF OIL IMPORTS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed, and the Chair recognizes the Senator from Louisiana [Mr. LONG].

Mr. LONG. Mr. President, today I should like to expand upon my remarks of March 20 concerning the program which has recently been put into effect which provides for a mandatory system for the control of imports of petroleum and petroleum products into the United States. I ask unanimous consent that, in the event there are any interruptions in the course of my remarks, they be printed immediately following my address in the RECORD, and, furthermore that insertions I have prepared may appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. LONG. Mr. President on March 10 the President of the United States issued a proclamation to regulate the imports of oil and its principal products into the United States. The basis for the President's action was legislation passed last year by the Congress the so-called defense amendment, section 8 of the Trade Agreements Extension Act, which amends the Reciprocal Trade Act to read as follows:

"SEC. 2. * * *

"(b) Upon request of the head of any Department or Agency, upon application of an interested party, or upon his own motion, the Director of the Office of Defense and Civilian Mobilization * * * shall immediately make an appropriate investigation, * * * to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. If, as a result of such investigation, the Director is of the opinion that the said article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall promptly so advise the President, and, unless the President determines that the article is not being imported into the United States in such quanties or under such circumstances as to threaten to impair the national security as set forth in this section, he shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not so threaten to impair the national security.

"(c) For the purpose of this section, the Director and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Director and the President shall further recognize the close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of Government, loss of skills or investment, or other serious effects resulting from the displacements of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security."

At the time when the amendments of 1958 were being considered, the defense amendment of 1955 was already in effect. The 1955 amendment gave the President far more discretion than the 1958 amendment. Even under the 1955 amendment, however, the President's Cabinet Committe had already determined that an adequate domestic petroleum industry was essential to nation-

al defense and that the ratio of exports to imports prevailing in 1954 was the desirable level.

A voluntary control program was in effect in 1958 with the understanding that a mandatory program would be necessary if the voluntary program failed to achieve its objective.

It was understood in the House of Representatives that the defense amendment which they wrote into the act before the bill came to the Senate was designed for just such a situation as existed in the petroleum industry.

I should like to call the attention of the Senate to a colloquy between the chairman of the Ways and Means Committee of the House of Representatives, the Honorable WILBUR MILLS, and the Member of Congress from the 13th District in Texas, the Honorable FRANK IKARD, on June 10, 1958, on the defense amendment.

Let me quote from this colloquy:

"Mr. IKARD. Mr. Chairman, I would like to ask the distinguished chairman of the committee two or three questions.

"Is it a fact that the so-called national security section of the committee bill has as its purpose providing the executive department with a means of taking whatever action is necessary to avoid a threat to our national security through imports and to make such * * * that injury to a particular industry essential to the national security will be avoided?

"Mr. MILLS. The answer is 'Yes'.

"Mr. IKARD. Is it a fact that the national security amendment of the present law was amended by the committee as reflected in the committee bill for the purpose of improving and facilitating the operation of this provision by providing specific critera and guidelines for use in its administration?

"Mr. MILLS. The answer to that question is 'Yes.'

"Mr. IKARD. The national security section of the committee bill specifies certain factors which would govern the Director of the Office of Defense Mobilization and the President in determining whether imports are a threat to national security. These are stated in the committee bill substantially as follows:

"'The Director and the President shall * * * give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availability * * * products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements.'

"Mr. IKARD. I am interested in knowing how these criteria would relate to the problem of excessive imports of petroleum and petroleum products. It is intended that under this provision imports of petroleum and petroleum products be held at levels which would permit the domestic industry to engage in a vigorous program of exploration at a rate consistent with the demands of our economy?

"Mr. MILLS. This provision is intended to hold imports at a level which will permit the United States to have sufficient oil, known, discovered, and developed as is required to meet our national security needs.

"Mr. IKARD. Does the committee amendment that will be offered to the national security section of the committee bill dealing with investment, exploration, and development necessary to assure the proper growth of an industry have any significance to the petroleum industry and other extractive industries?

"Mr. MILLS. Yes. This amendment will be offered to the bill for the purpose of further clarifying the committee's intentions with respect to encouraging free enterprise, exploration for, and the development of our natural resources at a rate sufficient to meet the demands of our national security. If drilling and exploration activities do not reach a satisfactory level, then under this provision the President or his designate would have the responsibility of re-evaluating existing programs for the regulation and control of imports to see that they meet the requirements of the new standards in the committee bill.

"Mr. IKARD. In the case of petroleum, is it intended that if the pending committee bill becomes law that a new study and certification would be necessary?

"Mr. MILLS. The answer is "No." I refer the gentleman specifically to the language on page 17, lines 15 to 17, which he offered in the committee to guarantee that the answer would be "No."

"Mr. IKARD. Is it intended that when the imports of a natural resource are controlled under the provisions of the national security section of the committee bill, and with particular reference to petroleum, that such control should take into consideration the importation of products, derivatives, or residues of petroleum so that these products and derivatives could not be imported in a way that would circumvent the control of the imports of the basic natural resources?

"Mr. MILLS. Yes. Clearly, when a decision is taken to restrict imports in the interest of national security it is our intention that the decision be effective and not rendered ineffective by circumvention."

Under these circumstances, it is difficult for anyone who supported the defense amendment of 1958 to conceive how anyone could possibly argue he did not understand that the defense amendment of 1958 would require greater protection of the domestic petroleum industry. Certainly, those of us who served on the Finance Committee explored this matter very carefully when the Secretary of Commerce testified before the committee.

Much of the language which went beyond the 1955 amendment was drafted with the petroleum industry specifically in mind. While there is no transcript of the executive session before the Committee on Finance, I am certain that every member of the committee recalls distinctly that the relationship of the amendment to the petroleum industry was thoroughly discussed when the committee considered this matter.

The Senate Finance Committee broadened the language of the House bill to strengthen the defense amendment. I should like to quote from the committee report on this measure:

"The Finance Committee accepted the section of the House bill relating to the national security, but amended it for the express purpose of strengthening and increasing its effectiveness. As was the purpose when the national security section was added in the 1955 extension of the act, the amendments are designed to give the President unquestioned authority to limit imports which threaten to impair defense-essential industries. Section 8 of the bill as reported grants to the Presidnet a potentially fast-moving vehicle for guarding our national security in this respect.

"The bill as reported provides that imports of an article, or its derivatives, must be adjusted unless the President finds that they are not entering in such volume as to threaten the national security, after the Director of the Office of Defense Mobilization has indicated such a threat exists. Language was further added directing attention and providing possible action whenever danger to our national security results from a weakening of segments of the economy through injury to any industry, whether vital to the direct defense or a part of the economy providing employment and sustenance to individuals or localities. The authority of the President is thereby broadened considerably, but the dangers inherent in an economy suffering from unemployment, declining Government revenue, or loss of skills, and investment because of excessive imports of one or more commodities, must be recognized and avenues provided whereby they may be lessened."

No one can read the legislative history of this amendment and have any doubt that such a mandatory program is exactly what was intended by the bill.

Mr. President, the problem of excessive imports of our fuel supplies has not been of concern only to the oil industry. Our coal producers supply much of our domestic fuel needs and have been having an extremely difficult time as well. The order placing residual fuel oil on the quota list should help revive that industry so vital to our national well-being and to the economies of certain sections of our country.

The President has not been hasty in responding to the duty that Congress has imposed upon him to limit oil imports. Many distinguished Members of this body have been urging the administration to take this action for some time as it has become increasingly apparent to us that the domestic industry, so vital to our whole economy, has been driven into a dangerously low level of production and exploratory activity.

Last year I felt it necessary to introduce an amendment which would require the President to limit the amount of foreign oil that could be brought into this country. I did not bring this amendment to a vote because I was assured that the defense amendment was designed to meet the problem.

In issuing the proclamation establishing the mandatory control program, the President said:

"The new program is designed to insure a stable, healthy industry in the United States capable of exploring for and developing new hemisphere reserves to replace those being depleted. The basis of the new program, like that for the voluntary program, is the certified requirements of our national security which make it necessary that we preserve to the greatest extent possible a vigorous, healthy petroleum industry in the United States."

It has been contended by some that the national security argument is specious. I do not see how anyone who is aware of the facts of the case can make such a statement, especially in view of the position of the Commander in Chief of our Armed Forces and the Special Committee To Investigate Crude Oil Imports, composed of the following Cabinet members: John Foster Dulles, Secretary of State; Neil H. McElroy, Secretary of Defense; Robert B. Anderson, Secretary of the Treasury—former Assistant Secretary of Defense, former Secretary of the Navy; Fred A. Seaton, Secretary of the Interior; James P. Mitchell, Secretary of Labor; Lewis L. Strauss, Secretary of Commerce—also rear admiral, retired, former Chairman of the Atomic Energy Commission.

On March 6, this special committee recommended the voluntary import program be replaced by a mandatory program. In their report to the President, they said:

"On February 27, 1959, the Director, Office of Civil and Defense Mobilization, reported to you that crude oil and its principal derivatives were being imported into the United States in amounts which threaten to impair the national security. In the light of that finding, the special committee recommends

that the voluntary oil import program be replaced by a mandatory program which will limit the imports of crude oil and certain derivatives to such levels as the national security requires and will allocate such imports as are authorized among companies in a fair and equitable manner."

Mr. President, those who argue that it is not necessary to the security of the United States that we have a healthy domestic oil industry capable of rapidly expanding its production in time of emergency must be of the school who believe that any future wars will be of the pushbutton nuclear type.

Apparently they rely upon statements of some of our military leaders that a thermonuclear war would cause such devastation that the outcome would be decided within 72 hours. From this statement they reason that the ability to fight a long, protracted war is no longer necessary. Hence, they suggest that there is no real need to maintain a domestic oil industry of any real magnitude.

If the gentlemen are correct, what we say and do here will make little difference one way or another. If there is such a nuclear conflict, utilizing all of the weapons that have recently been developed whose destructive power is almost beyond comprehension, the best that we could hope for is that possibly 60 million of the enemy would be destroyed while only 15 million or 20 million of our own would be lost. We might be able to completely destroy the enemy's warmaking potential, with our losses limited to perhaps 10 percent of our population. On the other hand, it is conceivable, and some say that it is highly probable, that civilized man would be completely eradicated from the face of the planet in such a holocaust.

Now, let us analyze that logic for a minute. Have any of the military leaders ever said that we do not need to have a domestic fuel industry adequate for our needs? Not at all. Have any of our military leaders suggested that we should not be able to fight a limited war with conventional weapons? Not that I know of.

Quite the contrary. Gen. Maxwell Taylor, the Chief of Staff of the U.S. Army, and Adm. Arleigh Burke, our Chief of Naval Operations, both state clearly that while we must stay prepared for a nuclear war, it is much more likely that the hostilities in which we will be engaged will continue to be wars of a limited nature.

Since World War II, there have been 18 wars of various sizes. Atomic weapons have not been used in any of them. Some of those wars were large and extremely significant. So was the result of the military decision.

Among them were the civil war leading to Communist victory in China, the war in Korea, the war in Indochina, the revolutions in Indonesia, the fighting in Greece, the warfare in the Near East, and the revolution in Hungary.

During the Suez crisis we had a good indication of the importance of a dependable supply of oil. England and France were frantic. They were fighting to protect their lifeline to the oil in the Near East. In England gasoline was rationed to approximately 7 gallons per month. Gasoline reserves were rapidly depleted in France.

It was the United States with its surplus productive capacity which was able to maintain a position of strength and confidence. We were able to go to the aid of our friends with large quantities of surplus oil and forgo imports from abroad at the same time.

It is because we wish it that way that we are constantly called upon to shoulder the heavy end of the load. Yet the truth is that aside from the oil in the United States, the free world is in a very vulnerable position insofar as its fuel requirements are concerned.

This is especially true of all of our allies in Europe, Australia, New Zealand, and even Japan. In the event of an emergency that disrupted the oil supply from Venezuela, the Middle East, and Indonesia, over 368 million people who are our allies would be dependent upon us for oil.

It would be extremely dangerous and unwise to permit our domestic oil industry to wither away as a result of foreign oil imports until we were no longer able to provide even our own requirements in an emergency.

We know that the Government of Venezuela is friendly as of today but the reception given our Vice President and his wife by Communist sympathizers is enough to put us on notice that the situation there could change overnight.

I do not think our friends from New England would like to be completely dependent upon the Middle East for fuel oil to keep them warm on cold winter nights. We all are familiar with the conflicts and the basic instability of that part of the world at present. With Nasser, Kassem, and Khrushchev all vying for supremacy, that source could be denied us at any time.

It is difficult to see how anyone fully aware of the facts could deny that a healthy oil industry is vital to our national security.

Recently a shipment of Rumanian oil reached the United States. Russia is now exporting large quantities of oil to certain areas in Europe and Iceland. I certainly hope that those opposed to a strong oil-producing industry in America are not so foolish as to believe that we might be able to import Rumanian and Russian oil in time of crisis.

PROBLEM OF MAINTAINING ADEQUATE CAPACITY

Those of us who understand the petroleum business are frequently confronted with opponents whose arguments have so little foundation in fact that we have a hard time even understanding what they are trying to say. For example, I have found people who would presume to express an opinion about the subject who are under the impression that an industry with proved reserves adequate to last 15 years should be able to produce all those reserves in 4 or 5 years to meet an emergency. This fails to take into account the actual facts of the situation.

If a well is pulled too hard, the ability of the well to drain oil from the sand where it is usually located is destroyed. Most oil is found in a strata of sand or shale on top of an almost inexhaustible supply of salt water. If pulled too rapidly for good conservation purposes, the salt water will be drawn into the pipe, and it may be a long time before oil can be produced from the well again. In some cases the well will be permanently killed.

In other cases the pressure of gas above the oil is required to force the oil to the surface. The principle of this operation is like a seltzer-water bottle, in which the gas is above the water and a tube extends from the mouth of the bottle into the water. The gas pressure pushes down on the water, forcing it up the tube and out of the bottle. In the case of an oil well, if the oil is extracted too rapidly, the gas will be exhausted too quickly, thereby forcing the use of a pump to lift the oil.

Another method of getting oil to the surface is called water flooding. In a field where there is no gas pressure, water is pumped into a well. The oil floats above the water, making it possible to lift the oil by pumping or flowing it slowly.

No matter what method is used, only a certain amount of oil can be taken from the ground each day without reducing the capacity to produce that which could otherwise be recovered.

The present capacity of the industry is somewhat greater than 10 million barrels per day, compared to about 7 million domestic production and 9 million domestic consumption.

In addition to the heavy losses suffered by trying to produce oil too quickly from a well, there must be sufficient transportation facilities to carry the oil to the refineries where it is turned into the petroleum products that are needed. Oil must be carried by pipeline, by water, or by the railroads. A tremendous increase in domestic production would dislocate existing transportation facilities, and if the domestic industry were to be further curtailed, transportation facilities would not be adequate to meet an emergency increase in domestic production. Transportation difficulties became a very serious problem when the industry was called upon to expand its production during the Suez crisis.

On March 6, 1959, the above ground crude oil stocks of the United States were estimated at 256 million barrels and petroleum product stocks were estimated at 488 million barrels. The National Petroleum Council estimates that only 30.1 percent of the crude oil stocks are readily available and only 65 percent of the product stocks, the rest being the fill in pipelines necessary to insure a smooth flow, and in the bottom of storage tanks. Available crude oil is estimated at 77 million barrels, and available products are estimated at 314,894,000 barrels. Thus, we have approximately a 10-day supply of available crude above ground and a 30-day supply of products. This is not enough to carry us very far in case of an emergency.

It might be asked. Why not store more above ground where it is readily available? This suggestion runs afoul two objections. First, because it is wasteful due to evaporation; and, second, because of the excessive cost of tank storage. It costs approximately $2 per barrel to store oil above ground. To store a 10-day supply of 70 million barrels costs about $140 million, not including the cost of the loss due to evaporation, which would be considerable if the oil has to be stored for a long period. It is far more efficient and economical to keep the oil in the ground, and to maintain at all times a sufficient number of wells capable of stepping up production without undue loss.

WE ARE NOT RUNNING OUT OF OIL

Several Senators have recently taken the floor to argue that it would be far better to save our own oil and import all the oil we can get, husbanding our own supplies for an emergency.

This is the fallacious idea that the domestic petroleum industry has had to contend with since shortly after it was founded just 100 years ago this year. The fact that the domestic industry is 100 years old and today is stronger in terms of reserves in the ground than at any time in its history, is proof of that.

I would like to cite a few examples of oil prophecies of the past which claimed the hour of extinction was at hand and show the progress of the domestic oil-producing industry despite these forecasts of doom.

First. In 1891, just 32 years after the first well was drilled successfully, the U.S. Geological Survey stated there was little or no chance for oil to be found in Kansas or Texas. In reality, more than 25 billion barrels of oil have been produced in these two States since that date.

Second. In 1914, an official of the U.S. Bureau of Mines stated that a total production of only 5.7 billion barrels of oil was possible in the United States. In reality, 56 billion barrels have been produced from 1914 to 1959.

Third. In 1947, the Chief of the Petroleum Division of the Department of State said sufficient oil cannot be found in the United States. From 1947 through 1958, 26 billion barrels of crude oil were produced and, in addition, 9 billion barrels were added to our known reserves.

Fourth. As late as 1949, the then Secretary of the Interior stated that the end of the U.S. oil supply was almost in sight. Since that date the domestic oil-producing indus-

try has found more than 29 billion barrels of oil.

Today, total U.S. production is 7,100,000 barrels daily and the Nation's petroleum reserves are at an all-time high of 16 billion barrels.

In contrast to these earlier forecasts of the United States running out of oil, however, the U.S. Bureau of Mines, in a statement before the House Appropriations Subcommittee, recently set total U.S. recoverable crude oil reserves at 300 billion barrels under known recovery methods. This 300-billion-barrels figure refers to the so-called potential reserves which estimates the amount of oil that experience causes us to predict we can find and produce. This does not take into consideration increased efficiency in production or the development of better technology in the search for and development of domestic reserves.

Neither do these figures take into consideration the U.S. Geological Survey estimates of available oil from western shale deposits of more than 1 trillion barrels.

Thus, it should be apparent to all, that as long as we have oil producers in this country, we will have oil. The only essential for the next 1,000 years is the oil producer. He is the indispensable element.

This brings me to the final answer to the "running out of oil" song which those who would profit most by loosening a flood of foreign oil into this country sing so loudly.

Most of us here in the Senate are fairly well versed in the rudiments of economics. Thus, I think we can all understand that if a producer cannot sell his product, he soon goes out of business. The domestic oil producers do not have an inexhaustible supply of funds, despite what we may hear to the contrary. In order to go out and look for new oil fields, in order to drill the wells once he thinks he has found a possible producing area, he first must sell some of the oil he has found in the past. He must pay the debts he incurred while finding and producing his previous wells and still have enough money left over to look for more oil. He cannot do this if he cannot sell the oil he has already found.

That oil does him, the economy, or the national security very little good until it is produced, sold, and processed. And, believe me, Mr. President, the oil he has not found yet cannot do anyone any good. If you do not believe me, just ask the Indians.

It takes from 3 to 10 years to develop a large oil field into shape so that it would be available in time of need. Oil potentials are found and developed. They simply cannot be found nor developed overnight, as some would have you believe.

Some of my friends who complain about the necessity of insuring a healthy domestic petroleum industry remind me of the little pig who built his house of straw to keep the wolf away. They will share the benefits of our internal strength if, like the pig who built his house of brick, we insure our security by maintaining an adequate domestic fuel supply.

The more one explores the facets and problems of maintaining an adequate supply of fuel to meet whatever war or emergency this Nation might face, the more one is forced to the inescapable conclusion of the Special Cabinet Committee which follows:

"In summary, unless a reasonable limitation of petroleum imports is brought about, your Committee believes that: In the event of a serious emergency, this Nation will find itself years away from attaining the level of petroleum production necessary to meet our national security needs." (Taken from the report of the Special Committee To Investigate Crude Oil Imports, July 29, 1957.)

The Secretary of the Interior has correctly stressed the crucial necessity of finding and developing additional reserves as our existing reserves are depleted. He has pointed out that since 1956 the number of wells drilled has declined by approximately 16 percent. Senators will note that the defense amendment, for which they voted, placed particular stress upon just such factors. Once again I invite attention to the last paragraph of section 8 of the Trade Agreements Extension Act which I have previously quoted.

FOREIGN TRADE: THE DOLLAR GAP IS GONE

Apart from the needs of national defense, it would be well to consider our imports and exports in oil as compared to other aspects of our foreign trade. Let us separate some of the facts of the situation from the fiction and the myth that exist today.

In the first place, there is no longer any dollar shortage throughout the world. Perhaps there may be a shortage of dollars in a few countries, but in the world as a whole foreign dollar holdings now amount to more than $16 billion. I first came to Washington in 1948. We were told that it was necessary to pass the Marshall plan to give away $17 billion as a contribution to the economic reconstruction of Europe. It was contended at that time that Europe was not in a position, and could not be in the foreseeable future, to repay the dollars which she needed from us. We were told that it was necessary to close the dollar gap, which theoretically represents the difference between our exports and our imports from Europe.

Ten years later we find that every year since 1948 foreign nations have received more dollars from the United States than they have paid out. While it is true that an American is not entitled to demand payment in gold for his dollars, foreign nations and foreign businesses are in a position to demand gold payments.

Much of the dominant position of the United States in international commerce has been related to our ability to redeem our currency abroad by payment in gold. When the great hue and cry to close the dollar gap was raised in 1948, we then had at Fort Knox $24.400 million, in round figures, worth of gold. Foreign nations held $7,700 million, leaving us $16,700 million in gold that we could call our own. By the end of 1958, our gold balance had declined to $20,600 million, with foreign nations holding $17,600 million, leaving us only $3 billion in gold not subject to foreign claims. We were told that this is less than the bare minimum which it is necessary to keep on hand for the protection of our own currency within the United States. Therefore, the fact of the matter is that, when we look to the world as a whole, far from having a situation that requires that we place more of our dollar holdings in the hands of foreign nations, we have, in fact, just the opposite situation.

I am not saying that there are not a number of ways by means of which we can adjust our present situation in order to reverse the flow of our dollars to foreign nations. There are a number of expedients which we can use to protect our position; but, so long as we stick to present policies, we have depleted our gold reserves as far as we can afford.

One may ask how we came to be in such an unfavorable position on trade balances, when our exports have been exceeding our imports by more than $6 billion a year. Much of the misunderstanding in this field has resulted from a failure of administration propagandists to tell the whole story. When they compute an export figure of $17,900 million for 1958, compared to an import figure of $12,800 million for the same period, they stop at that point, without telling the rest of the story.

The spokesmen for unlimited imports leave out of their calculations over $3 billion of military expenditures overseas in payments for base rights and in payrolls of servicemen.

They overlook almost $3 billion of direct aid to foreign governments.

They overlook $3 billion annually of American investment in foreign countries.

They overlook the tourist expenditures of about $1¾ billion annually going to citizens of foreign countries.

When all of these factors are taken into account, it is easy enough to see why our dollar is declining at the very time when we had been led to believe that we would be in better shape than ever.

Therefore, let us get this matter straight, once and for all. There is no dollar shortage in any general sense. We are on the short end of payment balances. In a general sense, it is this Nation which owes the money, not the foreign countries.

MOST INDUSTRIES EXPORT MORE THAN THEY IMPORT

Now let us further analyze the nature of foreign imports into this country. Of $12,800 million of foreign products imported into the United States last year, almost half of these products came in without any charge whatever for duty. These products were on the free list. For the most part they are not produced in the United States. I have in mind such products as coffee, cocoa, bananas, industrial diamonds, various metals, ores, and newsprint.

When we add to the list of imports which come in duty-free the imports which are subject to duty, although they are not competitive with American products, such as chrome, nickel, manganese, and cut diamonds, we find that more than half of the products imported into the United States are not competitive with those produced here. With regard to that half of our imports, we are trading in the old and traditional sense, whereby a Nation imports the things it does not produce and cannot produce, and exports the things it produces in surplus. This much of our foreign-trade picture should be simple and relatively uncomplicated.

There is a second type of trade, which is generally accepted and favored by all nations. This is the kind of trade in which a nation imports a product which is not essential to the security of the importing nation, and which has always been produced more cheaply by foreign nations.

The third category of imports are those which most nations prohibit. Those imports would have the effect of curtailing or destroying an established domestic industry. I have not been able to find a single instance, with the exception of the United States of America, in which a country has permitted one of its major industries to lose its domestic market, or even a significant portion of its domestic market. I am sure there must be instances in which this has resulted; yet I have challenged some of those who pose as experts in this field to cite me even one. Thus far they have not done so. It is certainly true in a general sense that every nation imposes tariffs and quotas or provides subsidies for its domestic industries before it permits them to be driven out by low-cost foreign competition. In the United States only 1½ percent of our gross national product, or 3 percent of our movable production, is represented by imported products which are competitive with American production.

In almost every major industry, our exports exceed our imports.

For example: Our Nation exports nearly five times as much in the field of chemicals and related products as it imports.

We export about 14 times as much industrial office and printing machine equipment as we import.

We export nearly four times as much in the scientific and professional instruments field as we import.

The automobile industry is an interesting example of foreign trade. At present, we import almost four times as many cars as we export. Yet, when we compare the total dol-

lar volume of exports of automobiles, parts, and accessories, to the total volume of imports, we find that our exports are well over twice our imports.

The answer to these seemingly contradictory statistics in connection with the automobile industry is that almost three-fourths of the value of automobile exports is composed of component parts and trucks, which are produced in this country, but are assembled in other countries. Thus, we import more finished products, more complete automobiles; but we export far more in the way of semifinished automobiles.

In other words, except for sugar and wool, which industries are protected by special arrangements under law, every other American major industry, except the minerals and the paper industries, exports far more than it imports. This statement is even true of the textile industry as a whole, although certain segments of that industry do face stiff foreign competition.

Petroleum and petroleum products, therefore, constitute the principal industry unprotected by a firm arrangement in Federal law in which imports greatly exceed exports. In the petroleum industry, as I have said, the imports exceed exports by over five to one.

Mr. President, I would like to have printed at this point in the RECORD a table comparing imports to exports in certain industries.

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

IMPORTS COMPARED TO EXPORTS

	Exports (millions of dollars)		Imports (millions of dollars)		Export-import ratio (approximate)
	January 1957	September 1958	January 1957	September 1958	
Petroleum and petroleum products	725.0	351.0	1,365.7	1,826.0	5 to 1.
Chemicals and related products	1,038.0	995.4	205.8	207.1	1 to 5.
Industrial, office, and printing machinery industry	1,950.8	1,813.7	151.9	131.6	1 to 14.
Automobiles, parts and accessories	989.4	803.3	227.8	387.5	1 to 2.
Textile fibers and manufactures	1,322.0	1,013.2	753.7	668.5	2 to 3.
Photographic and projection goods	75.6	77.9	29.8	29.1	2 to 5
Scientific and professional instruments	77.0	75.3	21.2	20.5	1 to 4.

PETROLEUM INDUSTRY ABSORBS FAR MORE THAN ITS SHARE OF IMPORTS

Mr. LONG. Mr. President, petroleum and petroleum products have accounted for a steadily declining percentage of total U.S. exports. At the same time oil has accounted for a steadily increasing share of total U.S. imports.

I would like to insert in the RECORD at this point, a table showing these contrasting trends.

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

	Exports of petroleum and products as percent of value of total exports of U.S. merchandise	Imports of petroleum and products as percent of total value of U.S. imports for consumption
Average, 1936–40	10.9	2.0
Average, 1941–45	5.8	2.7
Average, 1946–50	4.8	5.8
Average, 1951–56	4.7	7.3
Average, 1956 [1]	4.0	10.2
Average, 1957 [1]	4.8	12.0
Average, 1958	3.3	12.9

[1] Affected by Suez crisis.

Mr. LONG. In 1958, as is apparent from this table, oil accounted for 12.9 percent of the total dollar volume of U.S. imports. When it is realized that approximately half of these imports are not competitive with American goods, it is apparent that oil accounted for well over 25 percent of the dollar volume of all competitive imports.

The petroleum industry recognizes the important role of international trade. However, let us take a look at the relative position of oil in total U.S. foreign trade for 1957 and compare this with 1934, the year the trade agreement program was authorized. In 1934 oil imports were valued at about $36 million, or 2 percent of the total value of all imports of all commodities. In 1957 these figures were $1.5 billion, or 12 percent of this Nation's import trade. Obviously, oil has already contributed a substantial and increasing share of the total U.S. import trade. This one industry, so vital to national security, should not be expected to contribute to increasing international trade beyond the point that endangers the maintenance of adequate domestic supplies.

This history shows that oil has more than done its part in encouraging world trade. To further the extent of contribution petroleum has made since 1939, the date of the original Venezuela agreement, total annual dollar value of petroleum imports has increased more than 35 times, from approximately $40 million to about $1.5 billion in 1957.

Comparing the first half of 1956 to the first half of 1958, we see that the production of crude oil in the United States dropped by 698,000 barrels daily, while production in the Middle East increased by 502,000 barrels daily and Venezuelan production increased 155,000 barrels daily. U.S. production was down 9.7 percent in this period, while Middle East production was up 13.9 percent, Venezuelan production up 6.6 percent. Far East production up 19.2 percent, and Canadian production up 4.6 ercent.

The following chart shows changes in crude oil production from the first half of 1956 to the first half of 1958:

Changes in crude oil production—First half 1958 versus first half 1956

		Barrels daily
Middle East	up	502,000
Venezuela	up	155,000
Far East	up	75,000
Canada	up	20,000
United States	down	698,000

		Percent
Middle East	up	13.9
Venezuela	up	6.6
Far East	up	19.2
Canada	up	4.6
United States	down	9.7

Mr. President, the importation of oil into the United States has increased tremendously in the last 5 years, as demonstrated by the next exhibit showing the source and amount of U.S. crude oil imports from 1954 though 1958:

SOURCE OF U.S. CRUDE-OIL IMPORTS

[Thousands of barrels per day]

Year	Canada	Venezuela	Other Western Hemisphere countries	Total Western Hemisphere imports	Eastern Hemisphere countries	Total
1954	7	352	47	406	251	656
1955	46	386	43	475	307	782
1956	117	456	42	615	319	934
1957	151	531	35	717	304	1,622
1958	84	433	29	546	407	953

Most industries which face stiff foreign competition have the protection of tariffs. On goods which are protected, excluding oil, the average tariff is almost 15 percent ad valorem, compared to a tariff of approximately 3 percent in the case of oil.

In almost every case where imports of a product exceed the exports of that product there is a program to protect our domestic industry. Two examples of this are sugar and wool. The level of American production of these products is sustained by acts of Congress.

In 1958, our exports totaled $17.9 billion, and our imports totaled $12.8 billion. In 1957 our exports were valued at $20.8 billion, while imports were valued at $12.8 billion. Our imports have been roughly equal to two-thirds of our exports. Only half of the goods we import compete directly with American goods. Only about $6.5 billion of our annual imports are competitive.

Thus we see that the average ratio of exports to all competitive imports for the last 2 years is approximately 3 to 1. Our exports are three times as large as our imports for American industry as a whole.

Compare this favorable ratio to the situation which exists in the oil industry, where we import over five times as much as we export. Is it not then apparent that the oil industry is already absorbing at least several times more than its fair share of the burden of foreign trade?

What other American industry and its workers would be willing to give 20 percent of their market to foreign imports, and lower their tariff to 3 percent, without the prospect of some sort of protection?

I should like to put my friends on notice that if their attitude concerning protection for an industry, which is so vital to our national security, is one of unrestricted free trade, we may require that they live by the same standards they set for us.

It should be emphasized that under the provisions of the defense amendment, the President has the power to raise as well as lower the import quotas. It is not a one way street. If any of the fears expressed by opponents of the program materialize, the President has the authority to increase the quota.

DOMESTIC PRODUCTION WILL PROTECT THE CONSUMER

Many fallacious arguments have been used in attacking the President's long-overdue action to regulate oil imports. It has been stated that the President's order is a major contribution to inflation.

The record of the oil producing industry refutes this statement. The domestic petroleum producing industry has been one of the least inflationary industries in the United States. Since December of 1947, crude oil prices have been adjusted upward in only two instances, once in June 1953 and again in January 1957. Both increases were nominal and insufficient to offset increasing costs. Since the last increase, prices have been eroded away until today in many of the oil producing areas of the United States the

price is below what it was before January 1957.

In the latest 16 months, studies made by the Oil and Gas Journal indicate that oil producers have lost $807,718 a day in income through crude price cuts, involving 5,487,200 barrels a day. During this time some crudes have sustained two price cuts.

Mr. President, the following table shows cuts in the price of crude oil, the amount of crude affected, and the total daily dollar loss to producers:

	Barrels per day	Amount of cut (cents)	Total loss
October 1957 to April 1958	1,945,000	13.1	$250,000
May to October 1958	2,260,470	20.51	463,000
November 1958 to mid-January 1959	2,282,050	8.75	112,188

Mr. President, a few upward adjustments were made in this period which added $17,470 to producers' income.

Since 1947, this industry has absorbed more than 11 general increases in the price of steel, which it uses by the millions of tons every year. Industry wage rates have increased on 10 occasions, and there have been increases in the price of all of its equipment from drill pipe to oilfield machinery.

We often hear complaints about the high price of gasoline at the service station. Yet today we pay only 2 percent more for gasoline—less taxes—than we did in 1926. It is true that since 1926 the tax on gasoline has increased 270 percent. The 2-percent increase in the price of gasoline is in contrast to a 63-percent increase in the consumer price index for all commodities during the same period. Nor does it take into account the tremendous improvement in the quality of the gasoline.

This history of the petroleum industry is persuasive argument that the consumers of this Nation will not be the victims of unreasonable price increases because of a very modest restriction placed upon the importation of foreign oil.

It would be well to keep in mind that imports had been steadily increasing until the President's order went into effect and inflation had increased tremendously during this period.

It has been mentioned in the Senate that New England has experienced an increase of about 2 cents per gallon in the price of fuel oil within the last few months. It was said that this was the result of the voluntary controls over the importation of oil.

In view of the fact that imports continued to increase until March 10, it is difficult to see how this raised the price of fuel oil. It is probable that the increase in fuel oil prices was due to the increase in transportation costs.

The increase in tank-wagon prices in four Midwestern States has been criticized. Let me say that a one-half cent per gallon increase is hardly worth commenting on in this regard. There are frequent price fluctuations in tank-wagon prices throughout the United States at all times. If there were not this price difference, it is likely that someone would contend that there was an industry monopoly and that the industry was not subject to competitive conditions.

Oddly enough, the price increase of the Standard Oil Co. of Indiana was that which was referred to. I should like to point out that this is one of the major oil importing companies which was not in favor of the mandatory program. When it was pointed out in the Senate that "these oil interests could not wait for the ink to get dry on the President's proclamation before they started raising prices," it might be said that, inasmuch as Standard Oil of Indiana was opposed to the mandatory program, they could have raised prices in order to discredit the program and make it appear as if it were responsible for what was actually a long-contemplated price increase.

The independents and other domestic producers would want this program to be popular, while the large importers might well want the program to be unpopular.

When critics of this program referred to the problem of increased unemployment, they could not be referring to the tens of thousands of oil field workers who will be put back to work, as a result of the President's program. As a matter of fact, a tabulation and estimate the junior Senator from Louisiana had made as to the effect of increased imports in Louisiana indicates that in Louisiana alone, which is not the largest producing State by any means, unemployment increased about 25,000 because of increased oil imports.

The increased production from domestic wells, which have long been producing at uneconomically low daily allowables, should help to hold down the price of oil.

Foreign imports do not tend to lower the price of oil—they merely lower American production. This is true because the importers own most of the refinery capacity. The more they import the less domestic oil they buy. The less they buy, the less oil the independents can produce, once the aboveground storage has been fully utilized. At this point, State programs prorate production to prevent waste and to permit to each producer his share of daily allowables.

It is unsound from the consumers economic standpoint to become dependent upon foreign oil. Even if foreign sources were not susceptible to the whims of dictators and unstable governments, it should be remembered that foreign oil production is controlled by a handful of international oil combines. In contrast, the domestic petroleum industry consists of thousands of individuals, partnerships, and companies engaged in the production of petroleum. In view of these facts, is it better for the consumers of this Nation to be at the mercy of a few international oil companies? Or is it better that they rely upon thousands of producers in this country? The answer is obvious. The President's order, by preserving competition, will better protect the consumer.

The capacity of American producers is over 10 million barrels per day. They have been permitted to produce only 7,100,000 barrels per day.

DANGER OF UNDESIRABLE CONTROL OF INDUSTRY

The objection has been raised that the order of March 10 leads straight down the road to greater bureaucratic control over U.S. industry.

This supposition is completely fallacious. Since the first days of our Constitution, the Federal Government has regulated foreign commerce. This exercise of constitutional authority need not, and, in fact, it cannot legally lead to controls of prices and wages of domestic industries.

As I have mentioned previously, the action of the President to limit oil imports is under specific provisions of law wherein the Congress has delegated responsibility to the President. The law, commonly referred to as the national security amendment, was first enacted as section 7 of the Trade Agreements Extension Act of 1957. It was further amended and clarified last year in section 8 of the Trade Agreements Extension Act of 1958. This law gives the President authority to limit imports in the interest of national security. The law gives the President absolutely no authority to control prices, wages or any aspect of a domestic industry. To attempt to do so would be outside the law. It is fantasy to speculate that this law authorizes broadside Government controls of industry operations. Any attempt to so extend it certainly would fail for lack of legal basis.

Some Members of this body seem to abhor the thought of the Federal Government exercising its constitutional right and responsibility to control foreign commerce. The fact is that until recently the few international oil companies which control most of the foreign oil production have been controlling oil imports to their own liking.

For almost 4 years, the executive branch has been endeavoring to persuade these importing companies to limit their imports. These pleas and efforts for voluntary restriction have been flagrantly disregarded by importing companies with the result that imports have jumped to unprecedented levels.

CHARGE OF DISCRIMINATION UNFOUNDED

It has been charged that the President's program is discriminatory against regions of the United States without indigenous fuel supplies. This charge is likewise without foundation.

The President's order will not result in a drastic cutback in imports. It, in fact, will permit petroleum imports at a very substantial rate. Prior to World War II, total petroleum imported into the United States amounted to about 5 percent of domestic production. Following World War II, during the period 1946 to 1950, imports increased rapidly, averaging about 10 percent of domestic production. During the period 1951 to 1955, imports increased further, averaging about 16 percent of domestic production. The new oil import order will permit imports to continue at a rate equivalent to a rate of approximately 20 percent of domestic production. Certainly this cannot be criticized as a drastic cutback. It is, in fact, a most reasonable limitation.

It is true that the order constitutes a cutback from the rate of imports during the past 3 years. For example, during 1958 total imports amounted to 25 percent of domestic production. But it became obvious that such high rates of imports were crippling the domestic industry and causing a serious decline in the exploratory and development efforts of the domestic industry. No one has sought to eliminate all petroleum imports.

The President's Special Cabinet Committee To Investigate Crude Oil Imports carefully considered this aspect of the problem. In its 1957 report, it had this to say:

"Domestic consumers are utilizing an increasing amount of petroleum products for transportation, fuel, heating, and many other aspects of consumer life. In the event of a national emergency, it is essential to these consumers that there be adequate supplies at reasonable cost, both now and in the future. The low cost of imported oil is attractive, but excessive reliance upon it in the short run may put the Nation in a long-term vulnerable position. Imported supplies could be cut off in an emergency and might well be diminished by events beyond our control. This vulnerability could easily result in a much higher cost, or even in the unavailability, of oil to consumers. It is therefore believed that the best interests of domestic consumers, as well as of national security, will be served if a reasonable balance is maintained between domestic and foreign supplies."

During recent months the Government of Venezuela has taken action to increase the taxes imposed upon American companies operating there. This action further illustrates the instability of foreign oil from a consumer standpoint.

As consumers, the more we become dependent on any foreign source, the more we are at their mercy with respect to the price we are forced to pay. Once we become dependent upon foreign sources, we will have no choice but to pay whatever price is asked. The slight savings we might temporarily enjoy could prove very expensive a few years from now.

CANADA IS TREATED FAIRLY

The mandatory oil import program has been criticized on the grounds that it would complicate our relations with Canada. Let us weigh the impact of the program upon our northern neighbor before we jump to that totally unwarranted conclusion. It is important to realize several facts:

First, oil as such is a minute particle of our overall trade with Canada.

Second, the mandatory program makes generous allowances for Canadian oil imports.

Third, the importing companies in the Pacific Northwest have not been filling their allocations under the voluntary program with Canadian oil, not because of any U.S. Government restrictions, but because these importers found a cheaper source of supply, namely the Eastern Hemisphere.

As to oil in the overall Canadian trade picture, it should be noted that in 1958 petroleum accounted for only 2.4 percent of the total U.S. exports to Canada and only 3 percent of the total U.S. imports from Canada.

In 1958 the United States exported $3,400 million worth of goods to Canada. Petroleum accounted for $82 million of that total. We imported $2,600 million in goods from Canada, of which $78 million was in petroleum. The following table presents these figures:

CANADIAN-AMERICAN TRADE, 1958

	Total exports (millions)	Petroleum exports (millions)	Percent of total
Canada to United States	$2,600	$78	3.0
United States to Canada	3,400	82	2.4

This chart illustrates the obvious fact that Canada finds it economical to ship oil to us in the west and we find it economical to ship oil to Canada in the east.

The mandatory program makes allowances for refineries in the north central portion of the United States, which have easiest access to Canadian oil. It provides that imports of these refiners will not be within the program. Thus, they will be allowed to import without restrictions whatever they need in the way of imports from Canada.

During the past year when the voluntary program was in effect, importers in the U.S. Pacific Northwest, who historically have purchased Canadian crude oil, began to turn more and more to the cheaper crudes of the Eastern Hemisphere.

The voluntary program did not establish the source of imports, nor does the present mandatory program. If importers wish to purchase all their imports from Canada, there is nothing in the program to rule otherwise.

But let us face the facts. By and large, American importers do not want oil from Canada. In 1957, imports into the west coast from Canada totaled 95,000 barrels daily. In 1958, this total dropped to 25,000 barrels daily despite the fact the Government's crude oil allocation was more than 75,000 barrels daily for companies in that area who normally imported from Canada.

In the last quarter of 1958, imports from Canada into the west coast totaled only 11,000 barrels daily, some 65,000 barrels below the daily allocation. This decline took place despite the fact that two of the importing companies in the area have pipelines from Canada to their refinery gates.

This record shows that the President's program does not discriminate against Canada. If there is, or has been discrimination, it has been at the hands of the importing companies, not the U.S. Government.

In addition, let us examine Canada's own record. In 1954, Canada imported 95,000 barrels daily from the United States. In 1957, this declined to 80,000 barrels daily. In contrast, during this same period, imports into Canada from the Middle East and Venezuela increased from 218,000 barrels daily in 1954 to 320,000 barrels daily in 1957. As a result, about 45 percent of Canadian consumption is being supplied by Middle East and Venezuelan oil. Canada imports large quantities of low-cost Middle East and Venezuelan oil, rather than U.S. oil, to meet her large eastern markets, and, at the same time, takes the position that she has an established right to export her own production into the United States.

It might be well to take a look at our trade experience with Canada during the Korean conflict. In 1950, we imported 108,000 tons of lead pigs and bars from Canada. On January 26, 1951, our Government felt it necessary to impose price controls upon lead and other non-ferrous metals. This immediately caused Canadian producers to divert their lead to other markets where they could obtain a higher price. Our lead imports from Canada were cut almost in half. In 1951, they dropped to 57,000 tons. In spite of our great need for lead during the Korean conflict, the incentive to sell to other markets was too great for our Canadian neighbors to refuse.

This is not to condemn our good neighbors but merely to point out that a fair minded Canadian has no basis to criticize an order which protects American interests in a moderate way without discriminating against Canada.

VENEZUELA UNDERSTANDS

The fear has been expressed that this program would damage our relations with Venezuela. It would appear that Americans are more worried about this than the Venezuelans. Their Minister of Mines and Hydrocarbons, Sr. Juan Pable Perez Alfonzo, has stated that he does not regard the new U.S. mandatory imports control plan as a substantial change in the situation. Sr. Alfonzo said:

"Obligatory restrictions in the United States do not modify substantially the existing situation of the oil industry in this nation.

"For some time now, voluntary restrictions have shown the way toward stability of markets and prices. It is this stability that we are interested in.

"Venezuela, like the United States, wants to avoid upsetting the oil industry either here or there through undue market competition."

It must be remembered that there has been a fantastic increase in the importation of oil from Venezuela in the last 10 years. No other nation than the United States, capable of producing all the oil it needs, would consider allowing as much oil to come into the country. No other nation would have been so self-effacing.

The Venezuelans are certainly intelligent enough to recognize their good fortune in obtaining a large share of the American market.

Our prime purpose in economic assistance to friends and allies should be to help other nations to provide their own requirements rather than to displace American workers.

Our good-neighbor policy of allowing excessively large imports has benefited more than anyone else, the large oil companies. A country such as Argentina, which has its own nationalized oil industry, will find little opportunity to sell oil in the United States. The large integrated companies who own the tankers and the refineries are not interested in buying oil from other sources. They will not ship it and they will not be anxious to refine it. They can make more money producing their own oil overseas.

Mr. President, I have felt compelled to go into considerable detail to produce the facts and figures to put to rest a great number of uninformed charges and statements which have been cast about this Chamber and that of the House of Representatives in rather willy-nilly fashion. Their statements do credit to the extremities of their imagination. Practically none of these statements had any documentation whatever. I regret to say that a number of them exposed an abysmal lack of information concerning even the most elementary aspects of the petroleum industry. A great number of them would appear to rely upon the popular misconception that the domestic petroleum producer is a powerful, vested, special interest, gaining special advantages to which he is not entitled.

Herblock, the great cartoonist for the Washington Post, usually pictures the typical oil man as fat and prosperous and a cigar smoker. This picture, while extremely exaggerated, should be confined strictly to the importer. The typical domestic producer who is not in a position to operate overseas, could more accurately be pictured in khaki work clothes. Most of our small independent producers work hard for no more than the equivalent of a decent wage, and many go broke. A few lucky and skillful ones strike it rich, but that percentage is extremely small.

At a later date, I expect to present more information to clear up the false public impression about the financial status of the independent oil producers. It will be shown that earnings for the domestic industry as a whole are about the same as for manufacturing generally.

THE FOREIGN TAX CREDIT

It is the billion-dollar American oil companies which are reaping the benefits from foreign oil imports. These large corporations are benefited by a tax advantage which makes the percentage depletion allowance appear very small by comparison.

The operation of the foreign tax credit has caused the large oil companies to pay practically no tax whatever on their fantastic profits from foreign oil. As I have attempted to explain to a number of my friends, any reduction in percentage depletion for oil would not bring additional revenue to the U.S. Government from the enormous income from foreign oil, because it would only result in Venezuela, Saudi Arabia, Iraq, Kuwait, and Indonesia increasing their tax on American oil companies to claim for their treasuries that which would otherwise escape their taxation to the benefit of Uncle Sam.

Anyone who cared to enlighten himself on the manner in which this foreign tax credit has been used to deny revenue to our Government could satisfy himself in short order by reading the report drafted by the Joint Committee on Internal Revenue Taxation and made available to the Senate Committee on Finance. The report explains how this type of tax avoidance was used by Arabian American Oil Co., in pursuance of policies of the Government of Saudi Arabia.

INFERENCES OF CORRUPTION

I notice that the junior Senator from Wisconsin [Mr. PROXMIRE] told the Senate yesterday:

"The oil industry has won a position of corrupting power and influence in our Federal Government."

Mr. President, that statement sounds extremely like some of those which I have heard made by a previous junior Senator from Wisconsin. I hope very much he will produce his evidence that the smaller and independent domestic producers have corrupted the Congress which passed a law compelling the President to take action or that they corrupted the President who acted, well knowing that it was his duty. If the junior Senator from Wisconsin knows of unexposed

corruption in Government, it is certainly his duty to bring forth his evidence.

During my 10 years of service in the Senate, it has been my duty to vote upon a number of trade bills and a number of amendments affecting the petroleum industry when such amendments were offered to trade bills. In some years when oil imports were at a lower level, I have voted on the side of the major companies. In recent years, when oil imports began to threaten the domestic industry, I have felt it my duty to vote and fight to control foreign imports.

It has always been my feeling that both the large corporations and the small producers were entitled to be heard by the junior Senator from Louisiana. Both sides have very large investments in the State which sent me to the Senate. I am prepared to testify under oath that there hasn't ever been a single instance in 10 years during which the representatives of oil producers, either large or small, be they foreign producers or domestic companies, have made any offer to reward or threat of reprisal with regard to any position that I have taken or proposed to take concerning their interest. The junior Senator from Louisiana is certainly not one who owes his election to the influence of the oil companies. They were almost unanimous in their opposition to me—I mean both the independent and the major oil producers—when I was elected to the Senate in 1948, in large measure because I had strongly favored a very heavy increase in severance tax on oil at the State level. If I had known them to be less than honorable, I would not state to the contrary.

I believe I have shown that the President's order will help to preserve a domestic petroleum industry. In preserving the thousands of small independent producers, the President's order will assure vigorous competition by many thousands of competitors. Such competition is necessary if the consumer is to be protected from monopolistic pricing.

I believe I have demonstrated that the President's order has not and will not disturb our friendly relations with our neighbors or our friends throughout the world.

Quite the contrary, it will assure our ability to go to the aid of at least a dozen of our important friends and allies throughout the world in the event that everyone else fails them.

I believe I have demonstrated that the petroleum industry has accepted a rate of competitive imports compared to exports many times beyond the contribution of other American industries.

Above all, I believe I have demonstrated that the logic of the report of the President's Special Committee to study this matter is inescapable, and that the security of this Nation requires that we maintain a domestic petroleum industry adequate to serve this Nation in times of crisis.

Those who have experienced the cold winter months of World War II when fuel was strictly rationed and those who stand ever ready to make great sacrifices if need be in time of peace as well as in time of war, would never want this Nation to be at the mercy of uncertain and undependable sources of fuel during wartime or during national emergencies.

It is for this final reason that I am satisfied that all thoughtful Americans who take the trouble to acquaint themselves with the problem will hail the President's order as a desirable one, required by act of Congress and required by his duty to preserve this Nation.

Mr. GRAVEL. Mr. President, I ask unanimous consent that following my remarks and the appendices and other insertions, the bill be printed in the RECORD.

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

S. 2806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE; STATEMENT OF POLICY AND PURPOSES

SHORT TITLE

SEC. 101. This Act may be cited as the "Energy Revenue and Development Act of 1973".

STATEMENT OF POLICY AND PURPOSES

SEC. 102. The Congress finds and declares that—

(1) It is the policy of the United States to achieve energy independence by 1985 and to reduce progressively the dependence of the United States on foreign sources of energy between now and that date.

(2) The achievement of this goal is essential for the nation's economic growth, full employment, balance of payments equilibrium, and national security.

(3) A well-coordinated and defined national energy policy is needed to achieve energy independence by 1985. Such a policy must be implemented by a central Federal authority which would coordinate and define all energy policies and programs. An independent Commission of qualified scientists, engineers, and economists is needed to advise and assist this authority and publicly evaluate its policies and programs.

(4) The United States, including its continental shelf, has an enormous energy resource base, including an estimated 346 billion barrels of oil; 1178 trillion cubic feet of natural gas; 394 billion tons of coal; 1.6 million tons of uranium; and 189 billion barrels of oil shale. Rapid development of these massive energy sources is imperative.

(5) While developing fully these resources, the public and private sectors must develop alternative sources of energy including solar energy, wind, geothermal energy, ocean thermal gradients, coal gasification and liquefaction, nuclear fusion and fission, the conversion of organic materials to energy, and others.

(6) Achieving energy independence requires a massive investment of capital and technology over the next decade.

(7) Adequate and assured public financing of research and development programs requires the imposition of taxes on energy sources and the appropriation of the revenues from these taxes to a special energy trust fund.

(8) The private market must be allowed to operate freely in order to attract capital for the development of our indigenous energy resources. Accordingly, energy independence requires that price controls be phased out on petroleum and petroleum products, natural gas, and coal, and immediately terminated on essential articles needed in the extraction, refining, and transportation of petroleum and gas and the extraction of coal, subject to safeguards to assure that termination of such controls does not result in excessive profits.

(9) Foreign energy resources have proven to be an unreliable source of supply. In order to attract the capital necessary for the development of secure domestic resources, it will be necessary to impose variable duties on imported petroleum and petroleum products from all countries, and quota limitations on petroleum and petroleum products imported from foreign countries which have embargoed shipments of petroleum to the United States.

(10) The granting of tax incentives to stimulate the domestic production of petroleum and coal, and the removal of tax incentives which encourage foreign production of petroleum by American companies, are necessary components of a national energy policy.

TITLE II—ENERGY TRUST FUND; TAX ON ENERGY SOURCES

ENERGY TRUST FUND

Sec. 201. (a) Establishment of Trust Fund.—There is hereby established in the Treasury of the United States a trust fund to be known as the "Energy Trust Fund" (hereafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be appropriated or credited to it as provided in this section.

(b) Transfer of Amounts to Trust Fund.—

(1) In general.—There is hereby appropriated to the Trust Fund amounts equivalent to the taxes received in the Treasury under section 4496 of the Internal Revenue Code of 1954 (tax on energy sources).

(2) Method of transfer.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund on the basis of estimates by the Secretary of the Treasury of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) Appropriation of Additional Sums.—There are hereby authorized to be appropriated to the Trust Fund such additional sums as may be required to make expenditures referred to in subsection (e)(1) of this section.

(d) Management of the Trust Fund.—

(1) In general.—It shall be the duty of the Secretary of the Treasury to manage the Trust Fund and (after consultation with the Administrator of the Federal Energy Administration) to report to the Congress not later than the first day of March of each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during each fiscal year thereafter. Such report shall include the recommendations of the Administrator of the Federal Energy Administration as to the amount of revenues needed by the Trust Fund during the following fiscal year to meet expenditures from the Trust Fund during such fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) Investment.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (A) on original issue at the issue price, or (B) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the

United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(3) Sale of obligations.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(4) Interest and certain proceeds.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(e) Expenditures from the Trust Fund.—

(1) Energy programs.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures to carry out the provisions of titles III and IV of this Act.

(2) Refunds of taxes.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equal to the amounts of refunds or credits of overpayments of the tax imposed by section 4496 of the Internal Revenue Code of 1954.

TAX ON ENERGY SOURCES

SEC. 202. (a) Imposition of Excise Tax on Energy Sources.—Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter.

"Subchapter F—Tax on Energy Sources

"Sec. 4496. Imposition of taxes.

"Sec. 4497. Definitions; special rules.

"Sec. 4498. Certifications by Federal Energy Administrator.

"Sec. 4499. Cross reference.

"(a) IMPOSITION OF TAXES.—There is hereby imposed, at the rate provided in subsection (b)—

"(1) upon the extraction of oil, gas, or coal within the United States, a tax on the BTU content of the oil, gas, or coal,

"(2) upon the production of electricity (or other consumable energy) within the United States using any energy source other than oil, gas, or coal, or any product or derivative thereof, a tax on the BTU content equivalent of the energy source, and

(3) upon the importation into the United States of oil, gas, or coal, or any product or derivative thereof, a tax on the BTU content of the oil, gas, coal, product, or derivative.

"(b) RATES OF TAX.—The rate of tax referred to in subsection (b) is—

Per 1,000,000 BTU content (or BTU content equivalent)

[In cents]

"For the one-year period beginning on:	
July 1, 1974	4.1
July 1, 1975	4.5
July 1, 1976	5.2
July 1, 1977	5.9
July 1, 1978	6.5
July 1, 1979	5.9
July 1, 1980	5.2
July 1, 1981	4.5
July 1, 1982	4.1
July 1, 1983	3.4
July 1, 1984	2.8

"(c) By Whom Paid.—The tax imposed by subsection (a)(1) shall be paid by the person who extracts the oil, gas, or coal. The tax imposed by subsection (a)(2) shall be paid by the person who produces the electricity or other consumable energy. The tax imposed by subsection (a)(3) shall be paid by the importer.

"SEC. 4497. DEFINITIONS; SPECIAL RULES.

"For purposes of this subchapter—

"(a) BTU.—The term 'BTU' means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit at or near its point of maximum density.

"(b) BTU Content.—The BTU content of oil, gas, and coal extracted within the United States, and of oil, gas, and coal, and any product or derivative thereof, imported into the United States, shall be determined on the basis of certifications of the Administrator of the Federal Energy Administration under section 4498(a).

"(c) BTU Content Equivalent.—The BTU content equivalent of energy sources of electricity (or other consumable energy) produced within the United States shall be determined on the basis of certifications of the Administrator of the Federal Energy Administration under section 4498(b).

"(d) United States.—The term 'United States' has the meaning given to it by section 638(1).

"SEC. 4498. CERTIFICATION BY FEDERAL ENERGY ADMINISTRATOR.

(a) Fossil Fuels.—The Administrator of the Federal Energy Administration shall—

"(1) establish classifications or grades for—

"(A) oil, gas, and coal extracted within the United States, and

"(B) oil, gas, and coal, and products and derivatives thereof, imported into the United States, and

"(2) from time to time, certify to the Secretary or his delegate, for purposes of applying the taxes imposed by sections 4496(a)(1) and 4496(a)(3), the average BTU content for each class or grade so established.

"(b) OTHER ENERGY SOURCES.—The Administrator of the Federal Energy Administration shall, from time to time, determine and certify to the Secretary or his delegate, with respect to electricity (or other consumable energy) produced from any source other than oil, gas, or coal, or any product or derivative thereof, the average BTU content of the quantity of oil, gas, or coal which would be required, if used as the energy source, to produce the same number of kilowatts of electricity (or the same number of units of other energy). For purposes of applying the tax imposed by section 4496(a)(2), the BTU content equivalent of electricity produced in any geographic area shall be based on the fossil fuel energy source predominantly used for the production of electricity in the same geographic area.

"SEC. 4499. CROSS REFERENCE.

"For penalties and administrative provisions applicable to this subchapter, see subtitle F."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"SUBCHAPTER F. TAX ON ENERGY SOURCES."

TITLES III—FEDERAL ENERGY ADMINISTRATION ESTABLISHMENT

SEC. 301. (a) There is established the Federal Energy Administration (hereinafter called the "Administration"). The Administration shall be headed by an Administrator (hereinafter referred to as the "Administrator"), who shall be appointed by the President of the United States, by and with the advice and consent of the Senate. Under the supervision and direction of the President, the Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such duties and exercise such powers as the Administrator may prescribe. The Deputy Administrator shall act for, and exercise the powers of, the Administrator during his absence or disability.

(c) The Administrator and the Deputy Administrator shall not engage in any other business, vocation, or employment while serving as such.

NATIONAL ENERGY PROGRAM

SEC. 302. (a) The Administration, in order to carry out the purposes of this Act, shall develop, direct, and carry out a national energy program involving energy research, demonstration, development, utilization, and conservation in order to meet the present and future energy needs of the United States.

(b) In carrying out its functions the Administration shall—

(1) develop the technology and information base necessary to support development of the widest possible range of options available for future energy policy decisions of the United States by pursuing research, demonstration, and development programs in a wide variety of energy technologies with a view to progressively reducing the dependency of the United States on foreign sources of energy so that by 1985, imports of energy will be less than 5 per centum of domestic consumption;

(2) provide for the assessment, overview, and direction of the energy research and development activities of the Federal Government with a view to assuring adequate, reliable, economical, and environmentally acceptable energy systems to support the essential needs, present and future, of the United States;

(3) encourage the conservation of limited energy resources and maximize the efficiency of energy development, production, conversion, and use;

(4) provide the most effective short-term solutions to immediate energy shortage problems which are having serious impacts upon the Nation; and

(5) formulate and carry out a comprehensive energy research, development, and demonstration program which (A) will advance the policies and purposes of this Act, (B) is designed to make available to American consumers domestic fossil fuels, nuclear fuels, geothermal energy, and the potentially unlimited reserves of solar power, tidal power, and other unconventional sources of energy, and (C) will insure that full consideration and adequate support is given to—

(i) improving the efficiency, conservation, and environmental effects of the conventional sources of energy, including discovery, production, conversion, transportation, and use, and the disposal of waste products;

(ii) advancing energy research, development, and demonstration of unconventional energy sources and technologies, including, but not limited to, solar energy, geothermal energy, magnetohydrodynamics, nuclear fusion and fission processes, fuel cells, low head hydroelectric power, use of agricultural products for energy, tidal power, ocean current and thermal gradient power, wind power, automated mining methods and in situ conversion of fuels, cryogenic transmission of electric power, electrical energy storage methods, alternatives to internal combustion engines, solvent refined coal, utilization of waste products for fuels, and direct conversion methods; and

(iii) improving management techniques and the effectiveness of management of existing energy systems through quality control; application of systems analysis, communications, and computer techniques; and public information to improve the reliability and efficiency of energy supplies and encourage the conservation of energy resources.

AUTHORITY OF ADMINISTRATION

SEC. 303. (a) In the performance of its functions the Administration is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law;

(2) to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions, and, to the extent that it determines such action necessary to the discharge of its responsibilities, to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, scientific, engineering, and administrative personnel and compensate such scientific, engineering, and administrative personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but in no event in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code;

(3) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, vehicle quarters and related accommodations for employees and dependents of employees of the Administration, and such other real and personal property (including patents), or any interest therein, as the Administration deems necessary within the continental United States; to acquire by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia for the use of the Administration for a period not to exceed ten years without regard to the provisions of the first section of the Act of March 3, 1877 (40 U.S.C. 34); to lease to others such real and personal property; to sell and otherwise dispose of real and personal property (including patents and rights thereunder) in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended; and to provide by contract or otherwise for cafeterias and other necessary facilities for the welfare of employees of the Administration at its installations, and purchase and maintain equipment therefor;

(4) to accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(5) without regard to section 3648 of the Revised Statutes (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions, and to make such grants, all in consultation with the Commission on Energy Technology Assessment established pursuant to title IV of this act, as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory, or possession of the United States, or with any political subdivision thereof, or with any person, firms, association, corporation, or educational institution. To the maximum extent practicable and consistent with the accomplishment of the purposes of this act, such contracts, leases, agreements, and other transactions shall be allocated by the Administrator in a manner which will enable small-business concerns to participate equitably and proportionately in the conduct of the work of the Administration;

(6) to enter into a contract or other agreement with any person, firm, association, corporation, or other entity, pursuant to which contract or agreement (A) such person, firm, association, corporation, or entity shall be authorized to design, construct, operate, and maintain a demonstration type, or full-scale, commercial-size, facility to produce energy from oil shale, coal gasification, solar power, tidal power, or other unconventional sources of energy and (B) the Administration would be authorized to financially assist in the designing and construction of any such facility by means of a loan guarantee in accordance with the provisions of section 304 of this Act;

(7) to enter into a contract or other agreement with any person, firm, association, corporation, or other legal entity engaged in the prospecting, exploration, development, or production of oil or natural gas in accordance with the mining or mineral leasing laws of the United States, pursuant to which the Administration shall financially assist such person, firm, association, corporation, or entity in carrying out such prospecting, exploration, development, or production by means of a loan guarantee in accordance with the provisions of section 304 of this Act;

(8) to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies, institutions, and instrumentalities in the use of services, equipment, and facilities. Each department and agency of the Federal Government shall cooperate fully with the Administration in making its services, equipment, personnel, and facilities available to the Administration;

(9) to appoint, in accordance with the applicable provisions of the Federal Advisory Committee Act, such advisory committees as may be appropriate for purposes of consultation and advice to the Administration in the performance of its functions;

(10) to establish within the Administration such offices and procedures as may be appropriate to provide for the greatest possible coordination of its activities under this Act with related scientific and other activities being carried on by other public and private agencies, institutions, and instrumentalities;

(11) to obtain services of experts and consultants in accordance with section 3109 of title 5, United States Code;

(12) (A) to consider, ascertain, adjust, determine, settle, and pay, on behalf of the United States, in full satisfaction thereof, any claim for $5,000 or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from the conduct of the Administration's functions as specified in this Act, where such claim is presented to the Administration in writing within two years after the accident or incident out of which the claim arises; and

(B) if the Administration considers that a claim in excess of $5,000 is meritorious and would otherwise be covered by this paragraph, to report the facts and circumstances thereof to the Congress for its consideration; and

(13) to reimburse, to the extent determined by the Administrator or his designee to be fair and reasonable, the owners and tenants of land and interests in land hereafter acquired by the United States for use by the Administration by purchase, condemnation, or otherwise for expenses and losses and damages incurred by such owners and tenants as a direct result of moving themselves, their families, and their possessions because of such acquisition. Such reimbursement shall be in addition to, but not in duplication of, any payments that may otherwise be authorized by law to be made to such owners and tenants. The total of any such reimbursement to any owner or tenant shall in no event exceed 25 per centum of the fair value, as determined by the Administrator, of the parcel of land or interest in land to which the reimbursement is related. No payment under this paragraph shall be made unless application therefor, supported by an itemized statement of the expenses, losses, and damages incurred, is submitted to the Administrator within one year from (A) the date upon which the parcel of land or interest in land is to be vacated under agreement with the Government by the owner or tenant or pursuant to law, including but not limited to, an order of a court, or (B) the date upon which the parcel of land or interest in the land involved is vacated, whichever first occurs. The Administrator may perform any and all acts and make such rules and regulations as he deems necessary and proper for the purpose of carrying out this paragraph. Funds available to the Administration for the acquisition of real property or interests therein shall also be available for carrying out this paragraph.

LOAN GUARANTEES

SEC. 304. (a) In order to financially assist any person, firm, association, corporation, or other legal entity in carrying out any contract entered into pursuant to paragraph (6) or (7) of section 303 (a) of this Act, the Administration may, in accordance with the provisions of this section, guarantee to non-Federal lenders making loans to any such person, firm, association, corporation or entity, payment of principal of and interest on loans, made by such lenders, which are approved under this section.

(b) No loan guarantee under this section for any such purpose referred to in subsection (a) of this section may apply to so much of the principal amount thereof as exceeds 90 per centum of the cost of carrying out any such purpose.

(c) For each project for which a guarantee of a loan is sought pursuant to this section, there shall be submitted to the Administration an application by any such person, firm, association, corporation, or entity seeking such guarantee. Such application shall contain such information as the Administration may require to carry out the purposes of this section.

(d) The Administration may approve such applications only if—

(1) it is assured that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Administration may reasonably require; and

(2) it determines, in the case of a loan for which a guarantee is sought, that the terms, conditions, maturity, security (if any), and schedule and amount of repayments with respect to the loans are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Administration determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

(e) (1) In the case of any such loan guaranteed under this section, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to any such guarantee under this section, unless the Administration for good cause waives its right to recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) Guarantees of loans under this section shall be subject to such further terms and conditions as the Administration determines to be necessary to assure that the purposes of this section will be achieved, and, to the extent permitted by subsection (f), any of such terms and conditions may be modified by the Administration to the extent it determines such modification to be consistent with the financial interest of the United States.

(f) Any guarantee of a loan pursuant to this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for

fraud or misrepresentation on the part of such applicant or such other person.

(g) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriations Acts.

(h) With respect to any contract or other agreement entered into pursuant to section 303(a)(6) involving the designing, construction, operation, and maintenance of commercial or demonstration type facilities to produce energy from oil shale, coal gasification, solar power, tidal power, or other unconventional sources of energy, the Administration is authorized to include as a part of such contract or agreement provisions pursuant to which the Administration agrees to purchase any such energy so produced on a cost and reasonable profit basis. Energy so acquired by the Administration shall be disposed of in such manner and under such terms and conditions as the Administration shall prescribe. Revenues received by the Administration arising out of the disposition of such energy shall be deposited in the trust fund established by title II of this Act and shall be available for use by the Administration in the same manner and to the same extent as other moneys within such trust fund. Notwithstanding any other provision of law, no energy product produced or manufactured by any such facility with respect to which a loan guarantee was entered into pursuant to this section shall be exported from the United States for use in any other country.

PATENT POLICY AND MANDATORY LICENSING

SEC. 305. (a) (1) All research, development, demonstration, or projects contracted for, or financially assisted by the Administration pursuant to this Act, shall require as a condition of Federal participation that all information—whether patented or unpatented, in the form of trade secrets, know-how, proprietary information or otherwise—resulting in whole or in part from federally assisted research shall be made available at the earliest possible date to the general public, including, but not limited to, nongovernmental United States interests capable of bringing about further development, utilization, and commercial applications of such results.

(2) The Administrator, in administering patents pusuant to this Act, shall make a determination, case by case, in an on-the-record proceeding conducted in accordance with the provisions of the Administrative Procedure Act, as to whether patent licenses shall be granted on a royalty-free basis or upon a basis of charges designed to recover part or all of the costs of the Federal research. He shall make Government patent rights and technological and scientific know-how available on nonexclusive and nondiscriminatory terms to qualified applicants.

(3) (A) Whenever a participant in any program, contract, or energy research and development project pursuant to this Act holds background patents trade secrets, know-how, or proprietary information which will be employed in the proposed program, contract, or research and development project, the Administrator shall enter into an agreement which will provide equitable protection to the rights of the public and the participant:

Provided, however, That any such agreement shall provide that when the program, contract, or energy research and development project reaches the stage of possible commercial application, any of the participant's previously developed background patents, trade secrets, know-how, or proprietary information reasonably necessary to possible commercial application of the energy process or system developed under this title will be made available to any qualified applicant on reasonable and nondiscriminatory license terms or in other forms which shall take into account that the commercial viability of the total energy process or system was achieved with the assistance of public funds.

(B) As employed herein, the term "background patent" means a United States patent owned or pending by a contractor, grantee, participant, or other party conducting research or development work, or both, pursuant to this Act which would be infringed by the practice of any new technology developed under the research or development work, or both, contracted for, sponsored or cosponsored pursuant to this Act, or any demonstration-type or commercial-size facility federally assisted pursuant to this Act.

(b) Whenever the Administration determines that—

(1) (A) in the implementation of the requirements of this Act a right under any United States patent, which is not otherwise reasonably available, is reasonably necessary to the development or demonstration of an energy system or technology pursuant to this Act, and

(B) there are no reasonably equivalent methods to accomplish such purpose, and

(2) the unavailability of such right may result in a substantial lessening of competition or tendency to create a monopoly in any line of commerce in any section of the country,

the Administration shall so certify to a district court of the United States, which shall review the Administration's determination. If the district court upholds such determination, the court shall issue an order requiring the person who owns such patent, or rights thereunder, to license it on such reasonable and nondiscriminatory terms and conditions as the court, after hearing, may determine. Such certification may be made to the district court for the district court in which the person owning the patent resides, does business, or is found.

(c) The Administration shall, in determining license terms, duly consider and give weight to the effects of such terms on competition and small business.

(d) Nothing in this section shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(e) As used in this section, the term "antitrust laws" means—

(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.), as amended;

(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.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(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), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

MONETARY AWARDS

SEC. 306. (a) Subject to the provisions of this section, the Administrator is authorized, upon his own initiative or upon the application of any individual, partnership, corporation, association, institution, or other entity, to make a monetary award, in such amount and upon such terms as he shall determine to be warranted, to any such individual, partnership, corporation, association, institution, or other entity, for any scientific or technical contribution to the Administration which is determined by the Administrator to have significant value in the conduct of energy activities. In determining the terms and conditions of any award the Administrator shall take into account—

(1) the value of the contribution to the United States;

(2) the aggregate amount of any sums which have been expended by the applicant for the development of such contribution;

(3) the amount of any compensation (other than salary received for services rendered as an officer or employee of the Government) previously received by the applicant for or on account of the use of such contribution by the United States; and

(4) such other factors as the Administrator shall determine to be material.

(b) If more than one applicant under subsection (a) of this section claims an interest in the same contribution, the Administrator shall ascertain and determine the respective interests of such applicants, and shall apportion any award to be made with respect to such contribution among such applicants in such proportions as he shall determine to be equitable. No award may be made under subsection (a) of this section with respect to any contribution—

(1) unless the applicant surrenders, by such means as the Administrator shall determine to be effective, all claims which such applicant may have to receive any compensation (other than the award made under this section) for the use of such contribution or any element thereof at any time by or on behalf of the United States, or by or on behalf of any foreign government pursuant to any treaty or agreement with the United States, within the United States or at any other place; or

(2) in any amount exceeding $100,000, unless the Administrator has transmitted to the appropriate committees of the Congress a full and complete report concerning the amount and terms of, and the basis for, such proposed award, and thirty calendar days of regular session of the Congress have expired after receipt of such report by such committees.

AMENDMENTS

SEC. 307. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following:

"(22) Administrator of the Federal Energy Administration.".

(b) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(60) Deputy Administrator of the Federal Energy Administration.".

AUTHORIZATION

SEC. 308. (a) There are authorized to be appropriated out of the Energy Trust Fund (established by title II of this Act) such sums as may be necessary to carry out this Act. Sums appropriated pursuant to this section shall remain available until expended.

(b) Any funds appropriated for the construction of facilities may be used for emergency repairs of existing facilities when such existing facilities are made inoperative by major breakdown, accident, or other circumstances and such repairs are deemed by the Administrator to be of greater urgency than the construction of new facilities.

REPORTS

SEC. 309. (a) The Administration shall submit to the President for transmittal to the Congress in January of each year a report, which shall include (1) a comprehensive description of the programed activities and accomplishments of the Administration in the field of energy activity during the preceding calendar year, and (2) an evaluation of such activities and accomplishments in terms of the attainment of, or the failure to attain, the objectives and purposes of this Act.

(b) Any report made under this section shall contain such recommendations for additional legislation as the Administrator or

the President may consider necessary or desirable for the attainment of the objectives and purposes of this Act.

TRANSFER OF FUNCTIONS

SEC. 310. (a) There are hereby transferred to the Administration, all functions (including powers, duties, activities, facilities, and parts of functions) which were carried out immediately before the effective date of this section, by the Atomic Energy Commission and which relate primarily to the peaceful uses of atomic energy.

(b) With respect to any function transferred by this section and exercised after the effective date of this section, reference in any other Federal law, rule, or regulation to the Atomic Energy Commission shall, to the extent of the functions so transferred, be deemed to mean the Administration.

(c) In the exercise of any such function so transferred, the Administration shall have the same authority as that vested in the Atomic Energy Commission immediately prior to its transfer and the actions of the Administration, in exercising such function, shall have the same force and effect as when exercised by the Atomic Energy Commission immediately prior to its transfer by this section.

(d) All personnel, assets, liabilities, property, and records as are determined by the Director of the Office of Management and Budget to the employed, held, or used primarily in connection with any function transferred by this section are hereby transferred to the Administration in such manner and to such extent as the said Director shall prescribe. Such personnel shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

FUTURE TRANSFER OF FUNCTIONS

SEC. 311. (a) Subject to the provisions of this section, the President, for a period of thirty-six calendar months following the effective date of this section, may transfer to the Administration any functions (including powers, duties, activities, facilities, and parts of functions) of any other department or agency of the United States, or of any officer or organizational entity thereof, which relate primarily to the functions, powers, and duties of the Administration as prescribed by this Act. In connection with any such transfer, the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, personnel, and funds.

(b) No transfer shall be made under this section or any other law until (1) a full and complete report concerning the nature and effect of such proposed transfer has been transmitted by the President to the Congress, and (2) the first period of sixty calendar days of regular session of the Congress following the date of receipt of such report by the Congress has expired without the adoption by the Congress of a concurrent resolution stating that the Congress does not favor such transfer.

TITLE IV—COMMISSION ON ENERGY TECHNOLOGY ASSESSMENT

ESTABLISHMENT OF COMMISSION

SEC. 401. (a) There is hereby established the Commission on Energy Technology Assessment (hereinafter referred to in this section as the "Commission"), which shall be independent of the executive departments.

(b) The Commission shall consist of an Energy Technology Assessment Board (hereinafter referred to in this section as the "Board") which shall formulate and promulgate the policies of the Commission, and a Commissioner who shall carry out such policies and administer the operations of the Commission. The Commissioner shall be appointed by the President of the United States, with the advice and consent of the Senate.

(c) The Board shall consist of twenty-two members as follows:

(1) seven members appointed by the President of the United States, with the advice and consent of the Senate, who shall be persons eminent in one or more fields of the physical, biological, or social sciences;

(2) seven members appointed by the President of the United States, with the advice and consent of the Senate, who shall be persons eminent in the field of engineering;

(3) seven members appointed by the President of the United States, with the advice and consent of the Senate, who shall be persons eminent in the field of economics; and

(4) the Commissioner, who shall not be a voting member.

(d) Members of the Board, including the Commissioner, shall receive basic pay at the rate provided for level II of the Executive Schedule under section 5314 of title 5, United States Code.

(e) The Commissioner shall be appointed for a term of ten years. Members of the Board shall be appointed for terms of ten years, except that, of the members first appointed (other than the Commissioner), seven shall be appointed for terms of four years, seven for terms of seven years, and seven for terms of ten years. Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment.

(f) The Commissioner shall serve as chairman of the Board. The Deputy Commissioner shall act in the place and stead of the chairman in the absence of the chairman.

(g) (1) The basic functions of the Commission shall be—

(A) to advise, consult with, and make recommendations to, the Administration;

(B) to provide early indications of the probable beneficial and adverse impacts of the applications of technology related to energy;

(C) to analyze the quality of research, development, and demonstration contracted for by the Administration in carrying out the purposes of this Act, and the Commission is authorized to enter into contracts with individuals, private agencies and entities, educational institutions, and other non-governmental sources in making such analysis;

(D) to establish standards and goals for research, development, and demonstration on a priority basis in accordance with the present and future energy needs of the United States;

(E) to engage in studies to evaluate the relative benefits and costs of alternative forms of energy; and

(F) to construct and maintain economic models of the energy needs of the United States economy and the alternative means and costs of satisfying such needs currently and during the subsequent five years.

(2) In carrying out such functions, the Commission shall—

(A) identify existing or probable impacts of technology or technological programs relating to energy;

(B) where possible, ascertain cause-and-effect relationships;

(C) identify alternative technological methods of implementing specific programs relating to energy;

(D) identify alternative programs for achieving requisite goals;

(E) make estimates and comparisons of the impacts of alternative methods and programs relating to energy;

(F) estimate the economic costs of alternative energy sources and programs when technological development has been completed;

(G) identify the availability of various forms of energy from domestic and foreign sources and their prospects as reliable continuous sources of supply in the future;

(H) present findings of completed analyses to the Administration, to the appropriate committees of the Congress, and to the public;

(I) identify areas where additional research or data collection is required to provide adequate support for the assessments and estimates described in subparagraphs (A) through (H) of this paragraph;

(J) from time to time, take such action as may be necessary to keep the public fully informed as to its findings and recommendations in connection with the carrying out of such functions; and

(K) undertake such additional associated activities as the Commission may determine necessary, or that the Administration may request.

(h) The Board is authorized to sit and act at such places and times as it may determine, and upon a vote of a majority of its members, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The Board may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assent. Subpenas may be issued over the signature of the Chairman of the Board or of any voting member designated by him or by the Board, and may be served by such person or persons as may be designated by such Chairman or member. The Chairman of the Board or any voting member thereof may administer oaths or affirmations to witnesses.

(i) In addition to the powers and duties vested in him by this section, the Commissioner shall exercise such powers and duties as may be delegated to him by the Board.

(j) The Commissioner may appoint, with the approval of the Board, a Deputy Commissioner who shall perform such functions as the Commissioner may prescribe and who shall be Acting Commissioner during the absence or incapacity of the Commissioner or in the event of a vacancy in the office of Commissioner. The Deputy Commissioner shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.

(k) The Commission shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this section, including, but without being limited to, the authority to—

(1) make full use of competent personnel and organizations outside the Commission, public or private, and form special ad hoc task forces or make other arrangements when appropriate;

(2) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Commission with any agency or instrumentality of the United States, with any State, territory, or possession or any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, with or without reimbursement, without performance or other bonds, and without regard to section 5 of title 41;

(3) make advance, progress, and other payments which relate to technology assessment in the energy field without regard to the provisions of section 529 of title 31;

(4) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Commission and provide transportation and subsistence as authorized by section 5703 of title 5 for persons serving without compensation;

(5) acquire by purchase, lease, loan, or gift, and hold and dispose of by sale, lease, or loan, real and personal property of all kinds necessary for or resulting from the

exercise of authority granted by this section; and

(6) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Commission.

(l) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related records as will facilitate an effective audit in such detail and in such manner as shall be prescribed by the Office, and such books and records (and related documents and papers) shall be available to the Office and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination.

(m) The Commission, in carrying out the provisions of this chapter, shall not, itself, operate any laboratories, pilot plants, or test facilities.

(n) The Commission is authorized to secure directly from any executive department or agency information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions under this section. Each such executive department or agency shall furnish the information, suggestions, estimates, statistics, and technical assistance directly to the Commission upon its request.

(o) On request of the Commission, the head of any executive department or agency may detail, with or without reimbursement, any of its personnel to assist the Commission in carrying out its functions under this section.

(p) The Commissioner shall, in accordance with such policies as the Board shall prescribe, appoint and fix the Compensation of such personnel as may be necessary to carry out the provisions of this section, and obtain services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(q) The Commission shall submit to the Congress an annual report setting forth actions taken by it during the calendar year preceding such report in carrying out its functions under this section, including its expenses with respect thereto. Such report shall be submitted not later than March 15 of each year and shall be available to the public.

(r) For the fiscal year ending June 30, 1975, there is authorized to be appropriated such sum, not to exceed $———, as may be necessary to enable the Commission to carry out its functions under this section. To enable the Commission to carry out its functions each fiscal year thereafter, there is authorized to be appropriated out of moneys in the trust fund established pursuant to title II of this Act an amount equal to one per centum of moneys received by such fund during the preceding fiscal year.

TITLE V—TERMINATION OF PRICE CONTROLS

PETROLEUM PRODUCTS, CRUDE OIL, NATURAL GAS, COAL, AND DRILLING AND MINING EQUIPMENT

SEC. 501. Section 203 of the Economic Stabilization Act is amended by adding at the end thereof the following new subsections:

"(k) Upon the expiration of 1 year following the date of enactment of this subsection, or on the date provided in section 218, whichever is earlier, the authority conferred by this section to stabilize the prices of petroleum products, crude oil, natural gas, and coal shall terminate, but such termination of authority shall not affect any action or pending proceedings, civil or criminal, not finally determined on the date of such termination of authority, nor any action or proceeding based upon any act committed prior to such date. Immediately upon the enactment of this subsection, the President or his delegate shall begin to make such periodic adjustments in ceiling prices of commodities referred to in the preceding sentence as may be appropriate to ensure that such termination of authority may be accomplished in a manner which does not cause undue disruption or dislocation in the economy or any industry.

"(l) Notwithstanding the provisions of section 218, the authority conferred by this section may not be exercised after the date of the enactment of this subsection to stabilize the prices of steel pipe, drilling equipment, casing, or any other steel product which the Secretary of the Interior certifies is in short supply in the United States and is used in the extraction, refining, or transportation of crude oil or gas, or in the extraction of coal, but the provisions of this subsection do not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to such date."

NATURAL GAS DEREGULATION

SEC. 502. (a) Section 1(b) of the Natural Gas Act is amended to read as follows:

"(b) The provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for domestic, commercial, industrial, or any other use, and to natural gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas or to the sale of natural gas dedicated for the first time to interstate commerce or rededicated upon expiration of an existing contract on or after the date of the enactment of the Energy Revenue and Development Act of 1973, or produced from wells commenced on or after such date, for domestic, commercial, industrial, or any other use, by any person, whose principal business is not the transportation of natural gas in interstate commerce."

(b) Section 2(6) of the Natural Gas Act is amended by striking the last two words and by inserting before the period at the end thereof a comma and the following: "subject to the exception in section 1(b) above".

(c) Section 2 of the Natural Gas Act is amended by adding at the end thereof the following new clause:

"(10) 'Affiliate' of another person means any person directly or indirectly controlling, controlled by, or under common control with such other person."

(d) Section 3 of the Natural Gas Act is amended by striking from the first sentence "or import any natural gas from a foreign country" and by striking from the second sentence "or importation".

(e) Section 4(e) of the Natural Gas Act is amended by inserting before the period at the end thereof a colon and the following: *"Provided, however,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural gas company for or in connection with the purchase of natural gas exempt from this Act pursuant to section 1(b) except to the extent that the rates or charges made, demanded, or received for natural gas by an affiliate of the purchasing natural gas company exceed those made, demanded, or received by persons not affiliated with the purchasing natural gas company: *Provided further,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates or charges made, demanded, or received by any natural gas company for natural gas produced from the properties of that company from wells commenced on or after the date of the enactment of the Energy Revenue and Development Act of 1973, except to the extent that the rates or charges made, demanded, or received exceed those made, demanded, or received for natural gas by persons not affiliated with the purchasing natural gas company."

(f) Section 5(a) of the Natural Gas Act is amended by inserting before the period at the end thereof a colon and the following: *"Provided, however,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural gas company for or in connection with the purchase of natural gas exempt from this Act pursuant to section 1(b), except to the extent that the rates or charges made, demanded, or received for natural gas by an affiliate of the purchasing natural gas company exceed those made, demanded, or received by persons not affiliated with the purchasing natural gas company: *And provided further,* That the Commission shall have power to deny, in whole or in part, that portion of the rates or charges made, demanded, or received by any natural gas company for natural gas produced from the properties of that company from wells commenced on or after the date of the enactment of the Energy Revenue and Development Act of 1973, except to the extent that the rates or charges made, demanded, or received exceed those made, demanded, or received from natural gas by persons not affiliated with the purchasing natural gas company: *And provided further,* That the Commission shall have no power to order a decrease in the rate or charge made, demanded, or received for the sale of natural gas by any person not engaged in the transportation of natural gas in interstate commerce or by any affiliate of such person, if such rate or charge shall have been previously determined to be just and reasonable, such determination being final and no longer subject to judicial review."

TITLE VI—TAX ENFORCEMENT PROVISIONS

EXCISE TAX ON UNINVESTED PROFITS FROM FROM ENERGY SOURCES

SEC. 601. (a) Imposition of Tax.—Subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 43.—UNINVESTED PROFITS FROM ENERGY SOURCES

"Sec. 4960. Excise tax on uninvested profits from energy sources.

"Sec. 4961. Determination of tax base.

"Sec. 4962. Net investment in energy sources.

"SEC. 4960. EXCISE TAX ON UNINVESTED PROFITS FROM ENERGY SOURCES

"(a) TAX IMPOSED.—There is hereby imposed an excise tax equal to 40 percent of the profits from energy sources of every person for the taxable year to the extent such profits are not invested as required by subsection (c). This section does not apply to a public utility as defined in section 247(b)(1) (relating to the dividends paid deduction for public utilities).

"(b) PROFITS FROM ENERGY SOURCES.—For purposes of this chapter, the term 'profits from energy sources' means profits (computed as provided in section 4961) derived from the production, transportation, transmission, importation, and sale of consumable energy, or of fuel for conversion into consumable energy.

"(c) REINVESTMENT OF PROFITS FROM ENERGY SOURCES.—

"(1) Investment required.—Profits from energy sources in excess of the profit allowance provided in subsection (d) must be invested in qualified energy projects by the end of the taxable year following the taxable year during which such profits were earned. An investment is made when—

"(A) the taxpayer makes an outlay with respect to a qualified energy project, or

"(B) enters into a contract under which he is obligated to make the outlay within a two-year period beginning on the effective date of the contract.

"(2) Qualified energy project.—To qualify under this subsection, an energy project must further the expansion or improvement of existing energy sources, or must further the exploration for, research on, or development of new energy sources, which—

"(A) are located within the United States or its possessions (within the meaning of section 638), and

"(B) have been determined by the Administrator of the Federal Energy Administration materially to assist in the development of the domestic energy resources of the United States.

Determinations by the Administrator under this paragraph may describe projects by their general characteristics and location and shall be published in the Federal Register.

"(3) Administrative actions.—Within 6 months after the date of enactment of this chapter, and as frequently thereafter as may be necessary—

"(A) the Secretary or his delegate shall prescribe such regulations as he may deem necessary to specify the outlays which will meet the investment requirements of paragraph (1), and

"(B) the Administrator shall publish determinations of qualified energy projects which meet the requirements of paragraph (2).

"(d) PROFIT ALLOWANCE.—The profit of any persons from energy sources for the taxable year shall be reduced by—

"(1) 20 percent of his average net investment for the taxable year in energy sources (determined under section 4962) for the taxable year, or

"(2) $100,000,

whichever is greater.

"SEC. 4961. DETERMINATION OF TAX BASE

"(a) PROFIT FROM ENERGY SOURCES.—The profit from energy sources shall equal the sum of—

"(1) the taxable income derived by the taxpayer from energy property (as defined in section 4962(d)), computed with the modifications specified in subsection (b), plus

"(2) gain realized from the sale or exchange of energy property.

In the case of oil and gas wells and other mineral interests, for purposes of this chapter, the term 'taxable income from energy sources' has the same meaning as the term 'taxable income from the property' has for purposes of section 613.

"(b) MODIFICATIONS.—The modifications referred to in subsection (a) are as follows:

"(1) QUALIFIED INVESTMENTS.—A deduction or capital loss shall not be allowed with respect to an outlay—

"(A) treated by the taxpayer as a qualified investment under section 4960(c), or

"(B) attributable to an outlay which, in a prior taxable year, was treated by the taxpayer as a qualified investment under section 4960(c),

of profits from energy sources for any taxable year to which section 4960 applied.

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of energy properties which are capital assets shall not exceed the amount includible on account of gains from sales or exchanges of such properties; and

"(B) the deduction provided by section 1202 for long-term capital gains from the sale or exchange of energy property shall not be allowed.

"(3) ACCELERATED DEPRECIATION.—

"(A) LIMITED DEDUCTION ALLOWED.—In the case of energy property which is subject to the allowance for depreciation, the deduction allowable for the taxable year for exhaustion, wear and tear, obsolescence, or amortization shall not be allowed to the extent that such deduction exceeds the depreciation deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight-line method for each taxable year of its useful life for which the taxpayer has held the property.

"(B) RECAPTURED DEPRECIATION.—To the extent that any deductions for depreciation have been disallowed under subparagraph (A) with respect to section 1245 or section 1250, as the case may be, shall be appropriately reduced.

"(4) DEDUCTIONS FOR INCOME TAXES.—A deduction shall be allowed for that portion of the taxes imposed by chapter 1 for the taxable year, reduced by the sum of the credits allowable under—

"(A) section 37 (relating to retirement income),

"(B) section 38 (relating to investment credit),

"(C) section 40 (relating to expenses of work incentive program), and

"(D) section 41 (relating to contributions to candidates for public office),

which are attributable to profits from energy sources.

"(c) WITHDRAWAL OF INVESTMENT.—

"(1) INCREASE IN PROFITS CAUSED BY WITHDRAWAL.—If energy property with respect to which a qualified investment was made during a taxable year to which section 4960 applies is disposed of, or is devoted to a nonqualifying use, the profits from energy sources shall be increased by an amount equal to the difference between the greater of—

"(A) the amount treated as a qualified investment with respect to such property, or

"(B) (i) in the case of a sale, exchange, or involuntary conversion, the amount realized, or

"(ii) in the case of any other disposition, or a nonqualifying use, the fair market value of such property, and

the recognized gain, if any, resulting from the disposition of such property.

"(2) NONQUALIFYING USE.—A use of energy property is a nonqualifying use if the property as so used would not meet the requirements of section 4960(a) for purposes of a direct investment of energy profits.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) a disposition by gift;

"(B) a transfer at death, except as provided in section 691 (relating to income in respect of a decedent);

"(C) a transfer in which the basis of property in the hands of a transferee is determined by reference to its basis in the hands of the transferor by reason of the application of section 332, 351, 361, 371(a), 374(a), 721, or 731, except as provided below; and

"(D) a disposition in which gain is not recognized in whole or in part under section 1031 or 1033, except as provided below.

In dispositions to which subparagraphs (C) and (D) apply, paragraph (1) shall apply only to the extent that (i) the sum of the value of property which does not qualify to be received without recognition of gain and the amount of money which are received by the taxpayer in the disposition, exceeds (ii) the gain recognized.

"SEC. 4962. NET INVESTMENT IN ENERGY SOURCES.

"(a) IN GENERAL.—For purposes of this chapter, the term 'net investment in energy sources' means the average amount for the taxable year of that portion of the adjusted basis of energy property which is attributable to the equity interest of the taxpayer.

"(b) EQUITY INTEREST.—The equity interest of the taxpayer in energy property shall be determined by taking into account indebtedness incurred or continued by him which is directly related—

"(1) to the production of profits from energy sources, or

"(2) to the interest of the taxpayer in a partnership, trust, or corporation which is primarily engaged in the production of profits from energy sources.

In the case of a partnership, to the extent that indebtedness incurred or continued by the partnership results in adjustments to the basis of the interest of the taxpayer in the partnership under section 752 (relating to the effect of partnership liabilities), the indebtedness of the partnership shall be treated as indebtedness incurred or continued by the taxpayer.

"(c) REINVESTMENT.—No increase in net investment shall be allowed for purchases by the taxpayer of energy property if a sale of other energy property was made by the taxpayer within a period beginning six months before the purchase and ending six months after the purchase, unless the sale and purchase results in—

"(1) a material change in the kind of energy property held or used by the taxpayer, or

"(2) an increase in the amount of such property.

If no material change in the kind of property results from the sale and purchase, an increase in basis allowed under paragraph (2) shall be limited to the increase in the amount of energy property held or used by the taxpayer.

"(d) ENERGY PROPERTY.—For purposes of this chapter, 'energy property' means property, or an interest in property—

"(1) held by the taxayer for, or

"(2) used by the taxpayer directly in,

the production of profits from energy sources. The term includes an interest in a partnership, trust, or corporation only if such partnership, trust, or corporation is primarily engaged in the production of profits from energy sources.

"(e) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as he may deem necessary to determine the net investment of the taxpayer in energy sources by applying the rules provided in this section."

(b) Clerical Amendment.—The table of chapters for such subtitle D is amended by adding at the end thereof the following new item:

"CHAPTER 43. UNINVESTED PROFITS FROM ENERGY SOURCES."

(c) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE VII—IMPORTS OF PETROLEUM AND PETROLEUM PRODUCTS, NATURAL GAS, AND CERTAIN DRILLING AND MINING EQUIPMENT

VARIABLE IMPORT DUTIES

SEC. 701. (a) The headnotes for schedule 4, part 10, of the Tariff Schedules of the United States are amended by adding at the end thereof the following new headnote:

"4. (a) The duty imposed by this headnote is, with respect to any article described in this part—

"(1) the amount by which the domestic price of similar domestic articles in effect for the month in which such article is imported (as determined and prescribed under subsection (b)), exceeds.

"(2) the price (or value) of the article including any duty imposed by this part,

other than this headnote) on the date and at the place of importation.

"(b) The Secretary of the Treasury shall, at the end of each month, determine the average price at which each of the articles described in this part which was extracted or produced in the United States was sold during such month in the United States. The average price so determined for each article shall, for purposes of subsection (a)(1), be prescribed by the Secretary of the Treasury as the domestic price of such article in effect for the following month."

(b)(1) The rates of duty in rate columns numbered 1 and 2 for all items in schedule 4, part 10, of the Tariff Schedules of the United States (other than for items 475.15 and 475.70) are each amended by adding at the end thereof "+ the duty (if any) imposed by headnote 4".

(2) The rates of duty in rate columns numbered 1 and 2 for items 475.15 and 475.70 of such Schedules are each amended by adding at the end thereof ", except for the duty (if any) imposed by headnote 4".

(c) The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the first day of the first month which begins more than 30 days after the date of the enactment of this Act.

IMPORTS FROM CERTAIN ARAB COUNTRIES

SEC. 702. (a) The total quantity of the articles described in schedule 4, part 10, of the Tariff Schedules of the United States which may be imported into the United States during the calendar year 1974 and each subsequent calendar year from the countries enumerated in subsection (b) shall not exceed 5 percent of the estimated United States consumption of such articles for such year.

(b) The countries to which this section applies are Saudi Arabia, Libya, Algeria, United Arab Emirates, Kuwait, Egypt, Oman, Iraq, Syria, Qatar, and Bahrain.

(c) The Secretary of the Interior (hereafter in this section referred to as the "Secretary") shall before the beginning of each calendar year estimate the United States consumption of the articles described in schedule 4, part 10, of the Tariff Schedules of the United States for such calendar year. The Secretary may, from time to time during any calendar year, revise his estimate of United States consumption of such articles for such year. The Secretary shall publish his estimate for each calendar year and any revised estimate for such year in the Federal Register.

(d) The President shall by proclamation limit the total quantity of articles described in schedule 4, part 10, of the Tariff Schedules of the United States which may be entered, or withdrawn from warehouse, for consumption from the countries enumerated in subsection (b) during each calendar year to the quantity prescribed for such year under subsection (a), based upon the estimates, or revised estimates, made by the Secretary for such year under subsection (c). In any case in which any revised estimate results in a quantity of such articles which may be imported into the United States during a calendar year which is lower than the quantity resulting from the original estimate or a previous revised estimate for such year, the total quantity of such articles which may be imported during such year shall not be less than the quantity actually imported on or before the date on which the Secretary publishes such revised estimate.

(e) The Secretary shall issue licenses for the importation into the United States of articles the importation of which is limited by a proclamation of the President under subsection (d). The Secretary shall publicly announce the time, manner, and place for the submission of bids for the purchase of licenses to import specified quantities of such articles from the countries enumerated in subsection (b). Each license shall be issued under this subsection to the highest responsible bidder unless the Secretary determines that no bid is sufficiently high or that there has been collusion among bidders. In issuing licenses under this subection, the Secretary shall endeavor to assure, to the maximum extent possible, adequate supplies in Puerto Rico of the articles described in schedule 4, part 10, of the Tariff Schedules of the United States.

(f) The President may suspend any proclamation made under subsection (d), or increase the total quantity proclaimed under such subsection, if he determines and proclaims that such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the nation of the economic well-being of the domestic petroleum industry.

(g) The Secretary shall issue such regulations as he determines to be necessary to carry out, and to prevent circumvention of, the purposes of this section.

(h) All determinations by the President and the Secretary under this section shall be final.

RELAXATION OF IMPORT CONTROLS ON CERTAIN STEEL DRILLING AND MINING EQUIPMENT

SEC. 703. The President is requested to enter into negotiations with those foreign countries which have voluntarily limited the quantity of steel products which may be imported into the United States from such countries so as to permit the importation of increased quantities of steel pipe, drilling equipment, casing, and other steel products which the Secretary of the Interior certifies are in short supply in the United States and are used in the extraction, refining, or transportation of crude oil or gas, or in the extraction of coal.

NEGOTIATIONS BY OIL IMPORTING COUNTRIES WITH OIL EXPORTING COUNTRIES

SEC. 704. (a) The President is requested to enter into negotiations with foreign countries which are major importers of petroleum and petroleum products for the purpose of forming an organization of which all countries which are major importers of petroleum and petroleum products will be members and which will be authorized by each member country, in conformity with subsection (b), to represent that country in negotiations with foreign countries which are major exporters of petroleum and petroleum products.

(b) Any organization formed pursuant to the negotiations referred to in subsection (a) shall be the exclusive agent of each member country for negotiating with foreign countries which are major exporters of petroleum and petroleum products, and with any organization representing all or a portion of such countries, with respect to all matters relating to the export of petroleum and petroleum products from such major exporting countries and the import of petroleum and petroleum products into member countries of such organization, and particularly with respect to—

(1) the quantities of petroleum and petroleum products to be exported by such foreign exporting countries to member countries of such organization, and

(2) the prices to be paid by such member countries for petroleum and petroleum products imported from such major exporting countries.

(c) The Administrator of the Federal Energy Administration shall be the chief representative of the United States in any organization formed pursuant to negotiations referred to in subsection (a). Until such an organization is formed, the Administrator of the Federal Energy Administration shall, notwithstanding any other provision of law, represent the United States in all negotiations with foreign countries which are major exporters of petroleum and petroleum products with respect to matters described in subsection (b).

(d) Notwithstanding any other provision of law or of any agreement entered into by the United States, if any foreign country which is a major importer of petroleum and petroleum products—

(1) refuses to enter into the negotiations referred to in subsection (a),

(2) refuses to become a member of an organization formed pursuant to such negotiations, or, after becoming a member, withdraws from membership, or

(3) while a member of such organization, fails to abide by the decisions and actions of such organization, the products of such country, whether imported directly or indirectly, shall not, during the period of such refusal, withdrawal, or failure, be accorded most-favored-nation treatment and shall be subject to the rates of duty set forth in rate column numbered 2 of the Tariff Schedules of the United States.

TITLE VIII—EXPORT CONTROLS ON PETROLEUM, PETROLEUM PRODUCTS, NATURAL GAS AND COAL, AND CERTAIN DRILLING AND MINING EQUIPMENT

DEFINITIONS

SEC. 801. For purposes of this title—

(1) "Secretary" means the Secretary of Commerce;

(2) "energy producing commodity" means any article described in schedule 4, part 10, of the Tariff Schedules of the United States and coal; and

(3) "essential drilling or mining article" means any article which the Secretary of the Interior has certified to the Secretary is used in the extraction, refining, or transportation of crude oil or gas, or in the extraction of coal, and is in short supply in the United States.

DETERMINATION OF QUANTITIES AVAILABLE FOR EXPORT

SEC. 802. (a) At least quarterly during any period of nationwide energy emergency, and at least annually during any other period, the Secretary shall determine the quantity of each energy producing commodity, if any, and the quantity of each essential drilling or mining article, if any, that will be available for export during the succeeding quarter or year, as the case may be, and shall cause such determination to be published in the Federal Register.

(b) Such determination shall be made by estimating the total quantity of domestic production of each energy producing commodity and each essential drilling or mining article and subtracting from each such quantity the sum of—

(1) the quantity of each such commodity or each such article which the Secretary estimates will be necessary to meet domestic needs; and

(2) the quantity of each such commodity and each such article the Secretary estimates will be necessary for a reasonable carryover, taking into account any current or possible future national and international emergencies and the need to maintain adequate inventories. The quantity of any such commodity or any such article which remains, if any, shall be the quantity available for export.

LICENSING AND ALLOCATION OF EXPORT AUTHORITY

SEC. 803. (a) No energy producing commodity or essential drilling or mining article may be exported to any foreign country unless the exporter has been issued a license by the Secretary for the export of a quantity of such commodity or such article to such country, or unless such export is exempt un-

der the provisions of section 806, or section 807(3).

(b) The quantity of any commodity or article available for export shall be allocated among foreign countries by the Secretary on the basis of—

(1) the quantity of such commodity or article exported to such country during a representative base period; and

(2) such other factors as the Secretary determines to be fair, equitable, and sufficient to protect the interests of traditional trading partners of the United States.

ISSUANCE OF LICENSES

SEC. 804. (a) Upon establishing allocations under section 803, the Secretary shall publicly announce such allocations, and shall announce the time, manner, and place for the submission of bids for the purchase of licenses to export specified quantities of such commodities and articles to specified countries.

(b) Each license shall be issued under this section to the highest responsible bidder unless the Secretary determines that no bid is sufficiently high or that there has been collusion among the bidders.

ADMINISTRATIVE ADJUSTMENTS

SEC. 805. The Secretary may make adjustments in quantities determined under section 802 and of allocations determined under section 803 if he determines on the basis of new information that original determinations were erroneous.

EXEMPTIONS

SEC. 806. (a) The Secretary may exempt from payment of any license fee an export which he determines involves—

(1) the export of an energy producing commodity or an essential drilling or mining article to a developing foreign country with a serious need for such commodity or article; and

(2) such action would be in the best interests of the foreign relations of the United States and would not have an adverse effect on the energy needs of the United States and the program provided for under this title.

(b) The Secretary may exempt from the application of this title or any requirement under this title the export of any energy producing commodity or essential drilling or mining article which he determines—

(1) involves a temporary export for processing purposes to a foreign country and will result in a subsequent import of such commodity or article to the United States; or

(2) will be offset by a subsequent import of another energy producing commodity or essential drilling or mining article or other matter essential to the energy needs of the United States.

ADMINISTRATION

SEC. 807. The Secretary is authorized to issue such rules and regulations as may be necessary to carry out the provisions of this title, including rules and regulations—

(1) providing for the reduction, suspension, or termination of the allocation of any commodity or article made under this title to any foreign country if the Secretary finds that such country is reexporting all or any portion of such allocation under circumstances that tend to disrupt the regulatory program established under this title;

(2) limiting or prohibiting the sale or transfer after issuance of export licenses issued under this title if the Secretary finds such limitation or prohibition necessary to the orderly administration of the regulatory program established under this title; and

(3) exempting from application of this title any commodity or article the domestic production of which the Secretary determines will equal or exceed domestic and foreign demand.

TITLE IX—TAX INCENTIVES FOR INCREASED PRODUCTION OF ENERGY SOURCES

TAX CREDIT FOR DOMESTIC EXPLORATORY DRILLING AND SECONDARY AND TERTIARY RECOVERY COSTS

SEC. 901. (a) Section 46 of the Internal Revenue Code of 1954 (relating to amount of investment credit) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) GENERAL RULE.—The amount of the credit allowed by section 38 for the taxable year shall be equal to the sum of—

"(A) 7 percent of the qualified investment (as defined in subsection (c)) for the taxable year,

"(B) 14 percent of the domestic exploratory drilling expenses (as defined in subsection (f)) paid or incurred with respect to qualified domestic exploratory oil or gas wells completed during the taxable year, and

"(C) 14 percent of the costs paid or incurred during the taxable year for the secondary and tertiary recovery of oil or gas from wells located in the United States and its possessions (within the meaning of section 638)."; and

(2) by adding at the end thereof the following new subsections:

"(f) DOMESTIC EXPLORATORY DRILLING EXPENSES.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'domestic exploratory drilling expenses' means, with respect to a qualified domestic exploratory oil or gas well, the sum of—

"(A) the intangible drilling and development costs (within the meaning of section 263(c)) paid or incurred with respect to such well, and

"(B) in the case of a well which is completed at a depth of not less than 1,250 feet, the qualified geological and geophysical costs, not in excess of $50,000, assigned to such well under paragraph (3).

"(2) EXPLORATORY OIL OR GAS WELLS.—For purposes of paragraph (1), the term 'qualified domestic exploratory oil or gas well' means a well—

"(A) which is drilled within the United States or its possessions (within the meaning of section 638) for the purpose of producing oil or gas in commercial quantities,

"(B) which has been completed to the point of production or abandonment, and

"(C) (i) neither the bottom nor any producing interval of which is within 2 miles horizontally from the nearest producing interval of any well which is or has been capable of producing oil or gas in commercial quantities, or

"(ii) neither the bottom nor any producing interval of which is less than 3,000 feet below the lowest part of any known commercially producible deposit of oil or gas which lies closer to the earth's surface and is penetrated by any well capable of producing oil or gas in commercial quantities. An offshore well which is a qualified domestic exploratory oil or gas well within the meaning of the preceding sentence except that is not drilled for the purpose of producing oil or gas in commercial quantities, may, under regulations prescribed by the Secretary or his delegate, be treated as a qualified domestic exploratory oil or gas well.

"(3) Geological and geophysical costs.—

"(A) Qualified geological and geophysical costs.—For purposes of paragraph (1), the term 'qualified geological and geophysical costs' means, for any taxable year, so much of the taxpayer's geological and geophysical costs for the taxable year as does not exceed $50,000 multiplied by the number of qualified domestic exploratory oil and gas wells completed by the taxpayer during the taxable year at a depth of not less than 1,250 feet.

"(B) Geological and geophysical costs.—For purposes of subparagraph (A), a taxpayer's geological and geophysical costs for any taxable year are the expenses (not including any overhead expenses) paid or incurred by the taxpayer, or by any component member of the same controlled group of corporations (as defined in section 1563) of which the taxpayer is a member, in the search for oil or was within the United States and its possessions (within the meaning of section 638).

"(C) Assignment of qualified costs to wells.—The taxpayer shall, for purposes of paragraph (1), assign his qualified geological and geophysical costs for each taxable year to qualified domestic exploratory oil and gas wells completed by him during the taxable year at a depth of not less than 1,250 feet at such time and in such manner as the Secretary or his delegate prescribes by regulations."

(b) The amendments made by subsection (a) shall apply with respect to oil and gas wells the drilling of which is commenced after the date of the enactment of this Act.

ADDITIONAL TAX CREDIT FOR DEPRECIABLE PROPERTY USED IN EXTRACTION, ETC., OF ENERGY SOURCES

SEC. 902. (a) Section 46(c) of the Internal Revenue Code of 1954 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(4) Property used in extraction, etc., of energy sources.—In the case of section 38 property which is placed in service for the exploration for, other development, extraction, refining, storage, or transportation of, oil, gas, coal, or any other energy source, the qualified investment shall be two times the qualified investment determined under paragraphs (1), (2), and (3)."

(b) The amendment made by subsection (a) shall apply with respect to property placed in service after the date of the enactment of this Act.

TECHNICAL AND CLERICAL AMENDMENTS

SEC. 903. (a) The heading of section 38 of the Internal Revenue Code of 1954 is amended by inserting after "PROPERTY" the following: "AND IN PRODUCTION OF OIL AND GAS".

(b) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after "property" in the item relating to section 38 the following: "and in production of oil and gas".

(c) The heading of subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting after "Property" the following: "and in Production of Oil and Gas".

(d) The table of subparts for part IV of subchapter A of chapter 1 of such Code is amended by inserting after "property" in the item relating to subpart B the following: "and in production of oil and gas".

(e) Section 48 of such Code is amended by redesignating subsection (k) as (l), and by inserting after subsection (j) the following new subsection:

"(k) Domestic Exploratory Drilling Expenses and Secondary and Tertiary Recovery Costs.—Under regulations prescribed by the Secretary or his delegate, references in section 46(a)(4), section 46(d)(1), and subsections (e) and (f) of this section to qualified investment shall be treated as also referring to domestic exploratory drilling expenses and secondary and tertiary recovery costs."

(f) The Secretary of the Treasury or his delegate is authorized to prescribe such regulations as may be necessary to carry out

the purposes of the amendments made by this title.

TITLE X—MISCELLANEOUS TAX PROVISIONS

REMOVAL OF PREFERENTIAL TAX TREATMENT FOR NEW OIL AND GAS WELLS LOCATED OUTSIDE THE UNITED STATES

SEC. 1001. (a) Section 613 of the Internal Revenue Code of 1954 (relating to percentage depletions) is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) OIL AND GAS WELLS LOCATED OUTSIDE THE UNITED STATES.—Subsections (a) and (b) shall not apply with respect to oil and gas wells located outside the United States the drilling of which is commenced after the date of the enactment of the Energy Revenue and Development Act of 1973."

(b) INTANGIBLE DRILLING AND DEVELOPMENT COSTS.—Section 263(c) of such Code (relating to intangible drilling and development costs in the case of oil and gas wells) is amended by adding at the end thereof the following new sentence: "The regulations so prescribed shall not apply with respect to oil and gas wells located outside the United States the drilling of which is commenced after the date of the enactment of the Energy Revenue and Development Act of 1973."

CREDIT OR DEDUCTION FOR RESIDENTIAL ENERGY CONSERVATION EXPENDITURES

SEC. 1002. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by renumbering section 42 as 43, and by inserting after section 41 the following new section:

"SEC. 42. RESIDENTIAL ENERGY CONSERVATION EXPENDITURES.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of so much of the residential energy conservation expenditures paid or incurred by the taxpayer during the taxable year as does not exceed $1,000.

"(b) LIMITATION.—The credit under subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under the preceding sections of this subpart (other than sections 31 and 39).

"(c) RESIDENTIAL ENERGY CONSERVATION EXPENDITURES.—For purposes of this section, the 'residential energy conservation expenditure' means any expenditure otherwise chargeable to capital account, or any expense, paid or incurred for—

"(1) improvements or repairs, designed to reduce heat loss in winter and heat gain in summer, to property used by the taxpayer as his principal residence, including the installation of insulation, storm windows and doors, caulking, humidifiers, and other property designed for energy conservation, and

"(2) 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.

"(d) ELECTION TO TAKE DEDUCTION IN LIEU OF CREDIT.—This section shall not apply in the case of any taxpayer who for the taxable year elects to take the deduction provided by section 219 (relating to deduction for residential energy conservation expenditures). Such election shall be made in such manner and at such time as the Secretary or his delegate shall prescribe by regulations.

"(e) NO ADJUSTMENTS TO BASIS.—Notwithstanding the provisions of section 1016 (a), no adjustment to the basis of property shall be made for any residential energy conservation expenditure which is taken into account in computing the amount of the credit allowed by subsection (a).

"(f) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) Part VII of subchapter B of chapter 1 of such Code (relating to additional itemized deductions for individuals) is amended by renumbering section 219 as 220, and by inserting after section 218 the following new section:

"SEC. 219. RESIDENTIAL ENERGY CONSERVATION EXPENDITURES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction so much of the residential energy conservation expenditures (as defined in section 42 (c)) paid or incurred by the taxpayer during the taxable year as does not exceed $1,000.

"(b) ELECTION TO TAKE CREDIT IN LIEU OF DEDUCTION.—This section shall not apply in the case of any taxpayer who for the taxable year elects to take the credit against tax provided by section 42 (relating to credit against tax for residential energy conservation expenditures). Such election shall be made in such manner and at such time as the Secretary or his delegate shall prescribe by regulations.

"(c) NO ADJUSTMENTS TO BASIS.—Notwithstanding the provisions of section 1016 (a), no adjustment to the basis of property shall be made for any residential energy conservation expenditure which is allowed as a deduction under subsection (a).

"(d) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(c) Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (9) the following new paragraph:

"(10) RESIDENTIAL ENERGY CONSERVATION EXPENDITURES.—The deduction allowed by section 219."

(d) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Residential energy conservation expenditures.
"Sec. 43. Overpayments of tax."

(e) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 219. Residential energy conservation expenditures.
"Sec. 220. Cross references."

(f) The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

TITLE XI—TRANSFER TO THE SECRETARY OF THE INTERIOR OF JURISDICTION OVER THE NAVAL PETROLEUM AND OIL SHALE RESERVES; INCREASED PRODUCTION ON FEDERAL LANDS

TRANSFER OF JURISDICTION

SEC. 1101. (a) Effective upon the expiration of the ninety-day period following the date of the enactment of this title, all jurisdiction and control of the Secretary of the Navy (including those powers and functions conferred on the Secretary of the Navy by chapter 641 of title 10, United States Code, which are necessary to the Secretary of the Interior to enable him to carry out his duties under this title) over all properties inside the naval petroleum and oil shale reserves of the United States (including lands covered by leases) are transferred to the Secretary of the Interior.

(b) Except as provided in this title, the lands comprising the naval petroleum and oil shale reserves shall be administered by the Secretary of the Interior in the same manner and subject to the same laws of the United States, including the mineral leasing laws, as other public lands of the United States.

(c) Nothing in this title shall be construed as affecting any lease, contract, or other agreement entered into prior to the date of the enactment of this title, or the carrying out of such lease, contract, or agreement in accordance with the terms thereof, or to prohibit the continuance of any production of oil and gas being carried out prior to the date of the transfer of the jurisdiction and control of the naval petroleum and oil shale reserves to the Secretary of the Interior by this title. The Secretary of the Interior is authorized to exercise the powers and functions transferred to him by this title to the extent necessary to enable him to carry out the provisions of this subsection, including those involving the disposition of oil and gas products (including royalty products) from lands in the naval petroleum and oil shale reserves and lands outside such reserves covered by joint, unit, or other cooperative plans, for the benefit of the United States.

COMPREHENSIVE PLANS FOR LAND USE OR DISPOSITION

SEC. 1102. On or before the expiration of the twelve-month period following the date of the enactment of this title, the Secretary of the Interior shall report to the Congress a comprehensive plan or plans containing his recommendations for a program for the best and most appropriate use or disposition of the surface of the naval petroleum and oil shale reserves lands the jurisdiction and control with respect to which are transferred by this title. In preparing any such plan or plans pursuant to this section, the Secretary of the Interior shall seek the views and recommendations of the Joint Federal-State Land Use Planning Commission for Alaska established by the Alaskan Native Claims Settlement Act to the extent that such plan or plans involve or otherwise affect lands within Naval Petroleum Reserve Numbered 4.

CLAIMS OF ALASKAN NATIVES

SEC. 1103. Nothing in this title shall be construed as affecting in any manner or to any extent any right of, or claim by, Alaskan Natives to ownership of any of the lands, or interests therein, comprising Naval Petroleum Reserve Numbered 4.

INCREASED PRODUCTION OF OIL AND GAS ON FEDERAL LANDS

SEC. 1104. (a) The Secretary of the Interior is authorized and directed to require that any oil and gas field on lands or interests in lands owned by the United States, including lands on the Outer Continental Shelf—

(1) be fully developed as expediently as is reasonably justified;

(2) be produced at the maximum efficient rate of production where such field has not been so developed and produced; or

(3) be produced in excess of its maximum efficient rate of production if the Secretary finds that production at such rates is necessary to meet essential national energy requirements, except that no producer shall be required to produce crude oil in excess of the maximum efficient rate if production at such rate for a period of more than 180 days may create excessive risk of loss in the ultimate recovery of crude oil.

As used in this subsection, the term "maximum efficient rate" means production at a rate which may be sustained without damage or loss to the oil and gas reservoir or the ultimate recovery of crude oil under sound conservation, economic, or engineering principles.

(b) Notwithstanding any other provision of law, the Secretary of the Interior is au-

thorized and directed, under such terms and conditions as he may prescribe, to unitize or require the unitization of the lessees' interests in lands or interests in lands of the United States and such cooperative or pooling agreements as may be necessary or desirable for the joint operation of oil and gas fields referred to in subsection (a) to achieve full development and maximum production as provided herein.

(c) Subject to the rights of any party under pending litigation, the Secretary of the Interior may, upon petition by a lessee or on his own motion, review and reinstate any application for permission to explore, develop, or erect development platforms within leases on the Outer Continental Shelf. Whenever the review and reinstatement leads to the granting of an application or permit which had been previously denied on environmental grounds or for public purposes—

(1) if the term of the lease was not otherwise extended by production of oil and gas, the period of time during which the original application was being prosecuted before the Secretary and the Secretary's action contested before the courts shall be computed to extend the primary term of such lease for a like period; and

(2) if the term of the lease was extended by the production of oil and gas, the costs to the lessee of prosecuting the original application before the Secretary and contesting the Secretary's action before the courts may be offset against future royalty payments due under such lease, subject to audit and confirmation by the Secretary.

Mr. LONG. Mr. President, I wish to commend the distinguished Senator from Alaska, the chairman of the Finance Committee's Subcommittee on Energy, for the fine statement he has made here today and for the great amount of time and effort he has obviously devoted to the legislation he is today introducing. It is apparent that he has given the energy problem his close attention, and it is equally apparent that his proposal deserves our careful consideration.

Last month, under his leadership, the Subcommittee on Energy conducted an excellent series of hearings on the subject of fiscal policy and the energy crisis with a distinguished list of witnesses, including representatives from the executive branch, the academic community, and the private sector. To each of the witnesses, the subcommittee addressed these basic questions: "Should fiscal policy be employed to mitigate the current energy shortage and to assist in the transition to alternative energy sources? If so, how?" The answers of the witnesses to the first question were unanimously affirmative. The responses of the witnesses to the second question, of course, varied from witness to witness, but every witness agreed that incentives—either price incentives or tax incentives or both—are required if the supply of energy is ever to catch up with the demand for energy in this country.

The energy shortages we are today experiencing are largely the result of our past energy decisions—decisions which have served to diminish the incentives for finding and producing energy. If we devote our attention solely to the task of restraining energy consumption—without taking steps to increase our energy supply—then the energy crisis will be our legacy to future generations. If we immediately take steps to increase our domestic energy supplies, then the energy crisis is a problem we can surmount and put behind us.

As I understand it, the bill being introduced today addresses itself the task of increasing our domestic energy supplies. The emphasis is to let the private market work freely instead of establishing a Government-owned oil company which some naive individuals have suggested would resolve our energy problems.

The Senator's bill would formulate a national energy policy and help develop our conventional energy resources as well as alternative energy resources. I commend the Senator from Alaska, and I call upon my colleagues to give his proposals their careful consideration.

By Mr. MONDALE:

S. 2811. A bill to provide a simplified and uniform procedure for the imposition, collection, and administration of State and local sales and use taxes with respect to interstate commerce, to reduce significantly the burden of tax compliance for persons engaged in making sales in interstate commerce, and to eliminate restrictions on the taxing power of the States which now prevent them from securing collection and remittance of such taxes on certain interestate sales. Referred to the Committee on Finance.

STATE TAXATION OF INTERSTATE COMMERCE ACT

Mr. MONDALE. Mr. President, I am introducing a bill to provide a uniform system for the application of State and local sales and use taxes to transactions in interstate commerce. Its title is "The State Taxation of Interstate Commerce Act."

On September 18 and 19 of this year, the Committee on Finance's Subcommittee on State Taxation of Interstate Commerce, which I chair, held hearings which focused on the problems involved in State taxation of businesses operating, and transactions occurring, in interstate commerce. There was a broad range of testimony directed at the problems involved in the State taxation of corporate income derived from interstate business, and in the imposition of State and local sales and use taxes upon interstate sales. In the course of those hearings I was very impressed by the serious problems encountered by small businesses operating in interstate commerce. By and large the problems described involved their enormous difficulty in attempting to become aware of and comply with the sales and use tax provisions of each of the States and local jurisdictions in which these companies found themselves doing business. At the same time, I was also made aware of the broad differences in views which exist with respect to the establishment of uniform rules regarding State taxation of corporate income derived from interestate operations.

Accordingly, with the introduction of this bill, I propose to separate the legislative consideration of these wholly unrelated issues. My intention is to direct complete and undivided attention toward solution of the most compelling aspect of State and local taxation of interstate businesses, which our hearings have indicated is capable of relatively quick resolution. Indeed, a review of the developments since 1961, when Congress first directed that a study be made of interstate sales and use taxes shows that inclusion of remedial provisions on this issue in an omnibus State taxation bill has merely resulted in this particular issue being shelved rather than receiving the prompt attention it deserves.

I propose to provide the Congress, businessmen, consumers, and State tax officials alike with the opportunity to consider a uniform system for the application of sales and use taxes in interstate commerce which is based on the premise that there are some problems in the sales and use tax field that are different from those found in the income tax field and consequently require different solutions.

The objectives of the bill which I have introduced are: First, to provide a uniform system for the imposition of State and local sales and use taxes on interstate sales; second, to provide simplified and uniform compliance procedures; and third, to provide for the imposition of such taxes equally on all sales made within each State marketplace. The remedial provisions of the bill are directed exclusively to the solution of today's interstate sales and use tax problems. These provisions have been the subject of extensive analysis and public discussion. Welded together in the bill are the provisions of "The Interstate Sales and Use Tax Act," S. 282, now pending before the Committee on Finance and the "Louisiana Plan" which was presented to the Subcommittee on State Taxation of Interstate Commerce at its September hearings by Mr. Joseph N. Traigle, collector of revenue, State of Louisiana. The provisions of S. 282 have been formally endorsed by the National Association of Tax Administrators. I hope that the bill I am introducing today will be able to receive similar endorsement.

Today 45 States impose sales taxes. In 24 of those States, local governments also impose sales taxes. In the State of Alaska, only local sales taxes are imposed. These local sales taxes are completely administered by the State governments in all but six States. The legislation submitted today would enable interstate businesses to comply more easily with the sales tax provisions of the State and local jurisdictions in which they do business. It would also authorize the imposition and collection of such taxes on all sales made within each State so as to eliminate any competitive disadvantage which now exists with respect to sellers in each State presently required to collect and remit these taxes.

The approach taken in this bill is designed to simplify the compliance burdens on interstate sellers. It is also designed to eliminate the current exemption of some interstate businesses from these taxes. It would appear that the unification of these taxes into no more than 50 separate State sales taxes with uniform reporting procedures and requirements is consonent with our Federal system of government. In this way the sovereign taxing authority of each State is preserved. At the same time the

bill attempts to remove the kind of administrative and recordkeeping requirements that the Supreme Court feared could entangle an interstate business in a virtual welter of complicated obligations to numerous taxing jurisdictions without legitimate claim to impose a share of the cost of government. *National Bellas Hess, Inc.* v. *Department of Revenue*, 386 U.S. 753 (1967).

Mr. President, my purpose in introducing this bill is simple and direct. I want to focus attention on the basic issues involved in the application of State and local sales and use taxes to interstate business and to provide an opportunity for the consideration and debate of these issues on their merits. I am not wedded to every provision in this bill; it is a vehicle for discussion. I solicit the written views of those interested in the provisions of this bill so they may be reviewed by our subcommittee and the full Committee on Finance.

Mr. President, I wish to point out that the introduction of this bill, which intentionally excludes any provisions affecting State-imposed taxes on corporate income, should in no way be interpreted as an attempt to close the door on the possibility of remedial legislation in that area. The introduction of this bill merely evidences the fact that the sales and use tax aspect of the problems can be solved now. Consistent with our obligation to come to grips with the more difficult problems inherent in the State corporate income tax area, the Subcommittee on State Taxation of Interstate Commerce will continue to make every effort to assist the States and the business community to resolve the controversial issues that must ultimately be reconciled. It is my hope that some consensus for such legislation will be forthcoming soon.

Mr. President, I ask unanimous consent that this bill be referred to the Committee on Finance. I also ask unanimous consent that a copy of the bill be printed in the RECORD. Finally, I ask unanimous consent that an explanatory statement, briefly summarizing the provisions of the bill, be printed in the RECORD immediately following the text of the bill.

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

S. 2811

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 "State Taxation of Interstate Commerce Act".

TITLE I—TAXING POWER

SEC. 101. Power of a State of tax.

(a) IN GENERAL.—Each State shall have power to require persons subject to a uniform State and local tax (as defined in section 303) to collect and remit that tax on sales made by that person within that State.

(b) LIMITATIONS.—No State or political subdivision of a State may impose a sales tax or a use tax, other than a uniform State and local tax described in section 303 imposed and administered in accordance with the provisions of this Act, with respect to the sale within that State or political subdivision of tangible personal property by a person who—

(1) does not have a business location in that State, or

(2) does not regularly make household deliveries in that State (other than by common carrier or the United States Postal Service).

SEC. 102. Voluntary submission to tax.

Notwithstanding the provision of section 101, a person who does not have a business location in a State or political subdivision of that State, or who does not regularly make household deliveries in that State or political subdivision, may elect to become subject to the sales and use tax laws of that State or political subdivision in lieu of being subject to the uniform State and local tax imposed by that State. A State or political subdivision of a State may require such a person to collect and remit the sales or use tax imposed by that State or political subdivision (instead of the uniform State and local tax imposed by that State), but no State or political subdivision may require any person to make such an election as a condition of doing business in that State or political subdivision.

SEC. 103. Application of tax.

A tax imposed by a State or a political subdivision of a State in accordance with the provisions of this Act may apply to sales the destination of which is in that State or political subdivision without regard to the location of the place at which or the method by which that sale was solicited, the location of the place at which the order for the sale was accepted, the location of the place from which the property which is the subject of the sale was shipped, or the method by which that property was shipped.

SEC. 104. Savings provision for certain methods of collection.

Nothing in this Act prohibits any State or a political subdivision of a State from requiring an advance payment of a sale or use tax to a seller as agent for a State or political subdivision by a purchaser of tangible personal property for resale and nothing in this Act prevents a State or a political subdivision of a State from requiring a seller to collect and remit such advance payments as an agent for the State or political subdivision if credit for the advance payment is allowed in determining sales tax liability of the purchaser under statutory provisions in effect in that State or political subdivision on December 31, 1973.

TITLE II—RULES FOR APPLICATION OF TAXES

SEC. 201. Reduction of multiple taxation.

(a) TAXATION OF OUT-OF-STATE SALES.—No State or political subdivision of a State may impose a sales or use tax, or a uniform State and local tax, with respect to the sale of tangible personal property unless the destination of the sale is—

(1) in that State, or

(2) in a State or political subdivision of a State for which the tax is required to be collected under a reciprocal collection agreement authorized under section 405.

(b) Credit for Taxes Paid.—No State or political subdivision of a State may impose a sales tax, use tax, or uniform State and local tax with respect to the sale of tangible personal property on which such a tax, imposed by another State or a political subdivision of that other State, has been paid unless the State or political subdivision imposing the tax allows a credit against its tax for the amount of the tax paid with respect to the property to the other State or political subdivision. For purposes of determining the credit allowable under a tax imposed in accordance with the provisions of the preceding sentence—

(1) a State is not required to permit a credit against a tax imposed by it for any tax imposed by a political subdivision of another State; and

(2) a political subdivision of a State is not required to permit a credit against a tax imposed by it for any tax imposed by another State.

(c) Refund of Taxes.—No State or political subdivision of a State may impose a sales tax, use tax, or uniform State and local tax with respect to the sale of tangible personal property unless that State or political subdivision provides for the payment of a refund of that tax if such a tax is paid subsequently to another State or political subdivision with respect to that property on account of a liability for the payment of the tax which arose before the liability for the payment of the tax to that State or political subdivision arose. The amount of the refund payable by a State or political subdivision under a tax imposed in accordance with the provisions of the preceding sentence—

(1) shall not, in the case of a State government, exceed the amount of the tax imposed by the government of another State; and

(2) shall not, in the case of a political subdivision of a State, exceed the amount of the tax imposed by the political subdivision of another State which imposed the tax.

No State or political subdivision shall be required under this subsection to pay a refund of tax if the application for that refund is filed with that State or political subdivision more than one year after the date on which the tax on which the refund is based was paid.

(d) Limitation on Credit or Refund for Taxes Paid.—No State or political subdivision of a State shall be required to allow a credit under subsection (b), or to pay a refund under subsection (c), with respect to a tax imposed by another State or a political subdivision of another State if that tax was measured by periodic payments made under a lease prior to the sale, possession, storage, use, or other consumption of the property with respect to which the tax is imposed in the State or political subdivision imposing the tax. Nothing contained in this Act shall be construed to extend the period within which a refund of tax may be made under the laws of any State or political subdivision of a State.

(e) Vehicles and Fuels.—Nothing in subsection (a) shall be construed to affect the power of a State or a political subdivision of a State to impose or require the collection of a sales or use tax with respect to motor vehicles registered in that State. Nothing in this section shall be construed to affect the power of a State or political subdivision of a State to impose or require the collection of a sales or use tax with respect to motor vehicle fuels sold or consumed in that State.

SEC. 202. Transportation charges.

No State or political subdivision of a State shall have power to impose a sales tax, use tax, or uniform State and local tax under which freight charges or other charges for transporting the tangible personal property to which the tax relates are used in determining the tax payable with respect to the sale or use of that property if the freight charges or other charges are separately stated in writing by the seller to the purchaser, and if such charges do not exceed a reasonable charge for transportation by facilities of the seller or the charge for transportation by the carrier when the transportation is by other than the seller's facilities.

SEC. 203. Exempt sales.

(a) In General.—No State or political subdivision of a State shall have power to impose a sales tax, use tax, or uniform State and local tax unless the law under which that tax is imposed provides for the exemption from tax of sales described in subsections (b), (c), (d), (e), and (f) in accordance with the provisions of those subsections.

(b) Sales for Resale.—No seller shall be liable for the collection or payment of a sales tax, use tax, or uniform State and local tax with respect to an interstate sale of tangible personal property if the purchaser of such property furnishes or has furnished to the seller a certificate or other written form of evidence attesting to the fact that the property is being purchased for resale. Any such certificate or other written form of evi-

dence shall give the name and address of the purchaser, his registration number, the citation for the exemption under the respective State or political subdivision law, and shall be signed by the purchaser or his representative. Nothing in this subsection shall relieve a seller of the liability for collecting and remitting an advance payment of a sales or use tax required to be made by a purchaser for which the purchaser will receive a credit in determining liability of the purchaser under statutory provisions in effect on December 31, 1973.

(c) Sales to the United States Government.—No State or political subdivision thereof may impose a sales or use tax on tangible personal property sold directly to the United States Government and no seller shall be required to collect or remit a sales or use tax on such sales.

(d) Sales for Transshipment.—No seller shall be liable for the collection or payment of a sales or use tax with respect to an interstate sale of tangible personal property if the purchaser furnishes or has furnished to the seller a statement in writing that the property will be transshipped from the destination within the United States to a point outside the United States for use or consumption outside the United States. Nothing in this subsection shall prevent the imposition of a sales or use tax by a State or political subdivision on property initially covered by this exemption upon its subsequent return to a State or political subdivision for use or consumption.

(e) Elective Exemptions.—No seller shall be liable for the collection or payment of a sales or use tax with respect to an interstate sale of tangible personal property if the purchaser of such property furnishes or has furnished to the seller—

(1) a registration number or other form of identification indicating that the purchaser is registered with the State or the political subdivision thereof imposing the sales or use tax which is the destination at which the property will be delivered to the purchaser, and

(2) a certificate from the State or political subdivision having jurisdiction to require seller collection of the tax setting forth a legal citation under the laws of that State or political subdivision which specifically exempts the property or transaction from the tax imposed by that State or political subdivision.

(f) Retention of Certificates.—Any certificate required under subsections (b) through (e) shall be retained by the seller and made available by him to any taxing authority for inspection for 36 months after the date of the sale to which it relates. No sale shall be treated as a sale described in any of those subsections unless the seller can make the certificate relating to that sale available to the taxing authority requesting inspection of it during that 36-month period.

SEC. 204. Accounting requirements

Any State which imposes a uniform State and local tax in accordance with the provisions of this Act may require any person engaged in the business of selling property to which that tax applies to collect that tax and remit it to the State and to maintain such records and information as may be necessary for the proper administration of that tax, but no State shall have power to require that person to account for sales on the basis of any geographic or political subdivision of the State.

TITLE III—DEFINITIONS AND RULES

SEC. 301. Sales tax.

The term "sales tax" means any tax imposed with respect to retail sales, and measured by the sales price of tangible personal property or services with respect thereto, which is required by State law to be stated separately from the sales price by the seller, or which is customarily stated separately from the sales price.

SEC. 302. Use tax.

The term "use tax" means a tax imposed only once with respect to the exercise or enjoyment of any right of ownership or use of, or of any power over, tangible personal property incident to the ownership or possession of that property under lease or otherwise (including the consumption, holding, retention, or other use of that property) which is measured by the purchase price or value of the property.

SEC. 303. Uniform State and local tax.

(a) IN GENERAL.—The term "uniform State and local tax" means a sales or use tax, or a combined sales and use tax, certified to the Secretary of Commerce of the United States by the chief executive officer of a State as the single sales, use, or combined sales and use tax imposed by that State on—

(1) sales with a destination in that State of tangible personal property by a person who does not maintain a place of business in the State or make regular household deliveries in the State, or

(2) the use of tangible personal property in that State acquired by purchase, by a resident of that State, from such a person.

(b) Rate of Tax.—

(1) SALES TAX.—If the uniform State and local tax is a sales tax, it shall be a percentage of the amount of any sales to which it applies. That percentage shall not exceed the sum of—

(A) the percentage rate applicable under any sales tax imposed by the government of the State to sales of such property sold within the State by residents of that State, and

(B) a percentage rate equal to a fraction, the numerator of which is the sum of the revenues of each political subdivision within that State from sales taxes imposed by such political subdivisions on sales of such property during the most recent fiscal year for which data is available (adjusted for any change in the rate of such sales taxes), and the denominator of which is the sum of the amounts of the sales to which such sales taxes applied.

(2) USE TAX.—If the uniform State and local tax is a use tax, it shall be a percentage of the value of the property to which it applies. That percentage shall not exceed the sum of—

(A) the percentage rate applicable under any use tax imposed by the government of the State on the use of such property by residents of that State which is acquired by purchase from other residents of that State, and

(B) a percentage rate equal to a fraction, the numerator of which is the sum of the revenues of each political subdivision within that State from use taxes imposed by such political subdivisions on the use of such property for the most recent fiscal year for which data is available (adjusted for any change in the rate of such use taxes), and the denominator of which is the sum of the values of the property to which such use taxes applied.

(3) Combined sales and use tax.—If the uniform State and local tax is a combined sales and use tax, the sales tax portion shall be determined under paragraph (1) and the use tax portion shall be determined under paragraph (2).

SEC. 304. Sale; sales price; purchase price.

The terms "sale", "sales price", and "purchase price" include (but are not limited in meaning to) amounts paid under leases and rental payments for the use of property and amounts paid for services which are defined as taxable services under the laws of a State or political subdivision thereof.

SEC. 305. Interstate sale.

The term "interstate sale" means a sale in which tangible personal property sold is shipped or delivered to the purchaser in a State from a point outside that State.

SEC. 306. Destination.

The term "destination of a sale" means the State or political subdivision in which possession of the property is physically transferred to the purchaser or to which the property is shipped to the purchaser regardless of the f.o.b. point or other conditions of the sale.

SEC. 307. Business location.

A person shall not be considered to have a business location within a State or political subdivision unless he—

(1) owns or leases real property within that State or political subdivision,

(2) has an employee located within that State or political subdivision,

(3) regularly maintains a stock of tangible personal property in that State or political subdivision for sale in the ordinary course of his business, or

(4) is engaged in the business of leasing tangible personal property to other persons for use in that State or political subdivision.

For purposes of paragraph (3), property held by a consignee under consignment and offered for sale by him on his own account shall not be considered as stock maintained by the consignor, and property held by a purchaser under a sale or return arrangement shall not be considered as stock maintained by the person who furnishes the stock to the purchaser under that arrangement. If a person has a business location in a State or a political subdivision solely on account of paragraph (4), he shall be considered to have a business location in that State or political subdivision only with respect to such property.

SEC. 309. Location of employee.

(a) IN GENERAL.—An employer shall be considered to have an employee located within a State or political subdivision if the employee's service for the employer is performed entirely or primarily in that State or political subdivision. An employer shall not be considered to have an employee located in a State or political subdivision if the employee's activities on behalf of his employer within that State or political subdivision consists entirely of—

(1) the solicitation of orders for sales of tangible personal property which are sent outside the State or political subdivision for approval and which are filled by shipment or delivery from outside that State or political subdivision, or

(2) the solicitation of orders in the name of, or for the benefit of, a prospective customer of his employer if those orders are orders described in paragraph (1).

(b) Employees of Contractors and Extractors.—If the employer is engaged in the performance of a contract for the construction of improvements on or to real property in a State or political subdivision or of a contract for the extraction of natural resources located in a State or political subdivision, an employee whose services are related primarily to the performance of the contract shall be considered to be located in that State or political subdivision. This subsection shall not apply with respect to services performed in installing or repairing tangible personal property which is the subject of interstate sale by the employer, if such installing or repairing is incidental to the sale.

(c) The term "employee" has the same meaning as it has for purposes of Federal income tax withholding under chapter 24 of the Internal Revenue Code of 1954.

SEC. 310. State.

The term "State" means the several States of the United States and the District of Columbia.

SEC. 311. State law.

References in this Act to "State law", and "the laws of the State", include the constitution, statutes and other legislative acts, ju-

dicial decisions, and administrative regulations and rulings of a State and of any political subdivision.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. Prohibition against discrimination based on out-of-state occurrences.

No State or political subdivision of a State may impose a sales tax, use tax, or uniform State and local tax under which a person liable for the payment or collection of that tax is liable for the payment or collection of a higher rate of tax than any other person subject to that sales, use, or uniform State and local tax because—

(1) he is incorporated or qualified to do business in another State or political subdivision, or because he engages in any activity in another State or political subdivision,

(2) he is taxable under the laws of another State or political subdivision of that State, or

(3) other persons (including any agency of a State or a political subdivision of a State) are engaged in activities in another State or political subdivision of that State which affect him.

The application of a uniform State and local tax to a person at a higher rate of tax than the combined State and local sales or use tax which might otherwise be applicable to such person (if he made an election under section 102) is not a violation of the provisions of the preceding sentence.

SEC. 402. Permissible audits.

(a) AUDITS BY STATE AND POLITICAL SUBDIVISION.—Any State or political subdivision of a State which imposes a sales tax or use tax (but not a uniform State and local tax) shall have power, independently or in combination with any other State or political subdivision or group of States or political subdivisions, to conduct audits of the records of any person who is liable for the payment or collection of that tax.

(b) AUDITS BY STATE ONLY.—If any State imposes a uniform State and local tax, only the State shall have the power, independently or in combination with any other State or group of States who have also imposed such a tax, to conduct audits of the records of any person who is liable for the payment or collection of that tax.

SEC. 403. Limitation on audits.

No State or political subdivision shall conduct an audit in combination with any other State or political subdivision of a State unless it certifies to the person subject to the audit that any information obtained as a result of the audit will remain confidential between parties to the joint audit and will be used to establish tax liability with respect to the period covered by the audit only. If a State or political subdivision of a State audits a person in accordance with the provisions of this section it may not subsequently conduct an audit of that person for a prior taxable period, unless the person and the State or political subdivision shall have previously entered into an agreement, binding upon both parties under the laws of the State or political subdivision, under which liability for such prior period may be determined. The preceding sentence does not apply to any audit of such a prior taxable period if the State or political subdivision is permitted, under section 406(b), to make an assessment with respect to that period.

SEC. 404. Prohibition against audit charges.

No charge may be imposed upon a person audited by a State or political subdivision thereof to cover any part of the cost of conducting that audit outside that State or political subdivision, respectively.

SEC. 405. Reciprocal collection agreements.

The Congress hereby gives its consent to agreements between and among States under which one State will undertake to collect a sales tax, use tax, or uniform State and local tax imposed by another State whenever the person liable for the payment or collection of such tax has a business location in the State which undertakes the collection but not in the State which imposes the tax, but such agreements shall not provide for the collection of tax with respect to a sale or use of tangible personal property which is not taxable under the laws of the State which imposes the tax.

SEC. 406. Liability with respect to unassessed taxes.

(a) LIMITATION ON ASSESSMENT PERIOD.—Except as provided in subsection (b), no State or political subdivision thereof shall have the power, after the date of enactment of this Act, to assess against any person for any period ending on or before such date a sales or use tax with respect to tangible personal property, if during such period that person—

(1) was not registered in the State or political subdivision for the purpose of collecting tax,

(2) had no business location in the State or political subdivision,

(3) did not regularly engage in the household delivery of property in the State or political subdivision (other than by common carrier or United States Postal Service), or

(4) did not regularly solicit orders for the sale of tangible personal property by salesmen, solicitors, or other representatives in the State or political subdivision.

(b) EXTENSION WHERE REQUIRED BY LAW.—A State or political subdivision may make an assessment covering a period prior to enactment of this Act if the State or political subdivision and the person subject to the tax where legally bound by agreement, contract, decision of any court having jurisdiction, or statutory or constitutional provision to determine liability after enactment of this Act.

TITLE V—ADMINISTRATIVE PROVISIONS

SEC. 501. Return forms.

(a) IN GENERAL.—

(1) Sales or use tax returns.—A State or a political subdivision of a State may require the filing of returns by persons liable for the payment of any sales tax or use tax imposed by that State or political subdivision (other than a uniform State and local tax).

(2) Uniform State and local tax returns.—A State which imposes a uniform State and local tax applicable only to persons who do not have a business location within that State, or who do not regularly make parcel deliveries in that State, may not require such a person to file a return containing information other than—

(A) the name and address of such person;

(B) the Federal employer identification number of such person;

(C) the type of report;

(D) the period covered by the report;

(E) the gross sales of that person within the State or political subdivision;

(F) the total amount of sales by that person within the State which are exempt from such tax;

(G) the sales of such person within that State or political subdivision which are subject to tax; and

(H) the liability of that person for the payment or collection of tax.

(3) Standard form.—The Secretary of Commerce shall make available to the States a standard form for the return of the uniform State and local tax which shall be used by any State which imposes such a tax.

(4) Time for filing.—A State or political subdivision of that State may require returns described in paragraph (2) to be filed with it not later than 30 days after the end of each calendar quarter with respect to taxes for that quarter, but shall permit any taxpayer required to file such a return to elect, at such time and in such manner as that State or political subdivision may by law prescribe, to file such returns not later than the last day of each month with respect to taxes for the preceding month.

(b) ANNUAL SUMMARY.—Any person liable for the payment or collection of any tax to which this Act applies shall file annually with his Federal income tax return a schedule showing gross receipts from the sale of tangible personal property within each State. The Secretary of the Treasury shall provide the information shown on such schedules to the appropriate officers within each State engaged in the administration of the tax laws of that State. Failure to file such a schedule is punishable by a fine of not to exceed $1,000, imprisonment for 1 year, or both.

SEC. 502. Exemption for minimum sales of tangible personal property in interstate commerce.

No State or political subdivision of a State shall have power to impose a uniform State and local tax, on the sale of tangible personal property within that State or political subdivision, as the case may be, with respect to any person who does not sell tangible personal property for a price, in the aggregate, in excess of $10,000 within that State during the calendar year.

TITLE VI—REMEDY; EFFECTIVE DATE

SEC. 601. Remedy.

Any person who is liable for the payment of a tax imposed by a State or political subdivision with respect to the sale of tangible personal property within that State may, notwithstanding any other provision of law, bring an action in any district court of the United States for a district located within that State for a declaratory judgment with respect to whether the law under which that tax is imposed meets the requirements of this Act.

SEC. 602. Effective date.

Except as provided in sections 403 and 406, this Act shall apply to the sale or use of any tangible personal property occurring after January 1, 1976.

SEC. 603. Non-separability.

It is the intention of the Congress in enacting this Act to provide a single integrated statutory framework for the State taxation of interstate commerce. If any provision of this Act, or the application thereof to any person or circumstance is held invalid under the Constitution by any court of the United States, then, if such holding is not appealed, the remainder of this Act shall cease to be effective on the day after the last date on which an appeal could have been timely filed with respect to such holding.

BRIEF SUMMARY OF THE STATE TAXATION OF INTERSTATE COMMERCE BILL APPLYING TO ALL INTERSTATE SALES OF TANGIBLE PERSONAL PROPERTY

This bill is intended to provide a simplified and uniform procedure for the imposition, collection and administration of State and local sales and use taxes imposed upon interstate sales. It also is designed to reduce the burden of tax compliance for persons making such sales and to eliminate restrictions on the taxing power of the States which presently prevent them from imposing and collecting these taxes on certain interstate sales.

1. The proposed bill would permit a State to treat every sale of tangible personal property within its borders as a taxable transaction whether or not the interstate seller had a "business location" or made "regular household deliveries" of goods in the market State, and the seller would be required to collect and remit the taxes imposed on such interstate sales. However, a State or political subdivision would be precluded from imposing a sales or use tax upon these interstate vendors without a "business location" in the State unless the tax imposed were the uniform State and local combined tax authorized under this bill.

2. Each State, in order to impose a sales tax on such interstate vendors, would have to adopt a State-wide uniform sales tax rate which would apply to covered sales anywhere within the State. The distribution of the receipts from this tax would be divided between the State and local governments pursuant to an arrangement to be worked out by the State and local governments located therein. This uniform rate of tax would be computed by using a weighted average and would not exceed the maximum combined State and local tax rate authorized by the State. All States adopting the uniform tax rate would be required to file certified State-wide tax rates with the Secretary of Commerce.

3. Taxpayers subject to this tax would have to maintain sales records by State only and would not be required to separately account for any sales made in local taxing jurisdictions. However, any person subject to this uniform tax could elect to voluntarily comply with separate State and local sales and use provisions rather than being subject to the uniform State-wide tax.

4. A uniform reporting form would be provided requiring only the name and address of the seller, his Federal employer identification number, the type of report (total company, division, etc.), period covered by the report, gross sales within the State, exempt sales within the State, net taxable sales, and tax liability. This uniform form would be developed with the assistance of the Department of Commerce. Every taxpayer would be able to obtain a copy of the uniform tax form and a current statement of all certified State-wide tax rates from any State utilizing the uniform procedure or the Department of Commerce.

5. Under the proposed bill a number of uniform exemptions would be provided. All sales for resale would be exempt. Sales to the United States Government and sales for transshipment to another taxing jurisdiction or another country would also be exempt. Also, any exemption valid under State law evidenced by a valid exemption certificate received by the vendor from the purchaser could be claimed. States would also be required to allow a credit for any sales or use taxes previously paid, not to exceed the tax levied by the State providing the credit. Liability for these taxes would be required to be reported at the end of each calendar quarter. A taxpayer could elect to make reports and payments in any other manner with the consent of the taxing State. Interstate sellers making sales of less than $10,000 per year in a State would be exempt from the imposition of the uniform sales and use tax.

6. The States would have authority to audit the books and records of any taxpayers subject to this uniform tax. The audit could be conducted independently or in combination with other States or a group of States, provided each of the States involved in a joint audit provides the taxpayer with 30 days written advance notice of such an audit and guarantees the confidentiality of any information obtained. No charge may be imposed on a taxpayer to cover any part of the cost of conducting an audit outside the State.

7. Where freight charges or other charges are separately stated in writing by the seller to the purchaser and these charges are reasonable for transportation, such charges would not be included in determining the amount of the sale subject to tax.

8. The provisions of this Act are to apply to the sale of tangible personal property occurring after January 1, 1976. No State or political subdivision would have a right to assess against any person after the date of enactment of the Act any tax liability which would not have existed but for the adoption of these provisions. This provision would bar assessment of any past liabilities of persons who had no business location within the State or political subdivision or did not regularly engage in household deliveries of property in the State or political subdivision or who did not regularly solicit orders for sales of tangible personal property through salesmen, solicitors, etc., or who were not registered in the State or political subdivision for the purposes of collecting sales and use taxes.

9. Any person liable for the taxes imposed under the bill would be provided with a right to sue in the United States District Court within the State imposing the tax under the bill for a declaratory judgment as to whether the State complied with the provisions of the bill in imposing its tax.

10. The bill provides for the filing of an annual summary with each taxpayer's Federal income tax return. The summary would show the taxpayer's gross receipts from the sale of tangible personal property within each State. This information is authorized to be made available by the Secretary of the Treasury to appropriate State officials engaged in the administration of a State's tax laws.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 100

At the request of Mr. PELL, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 100, to provide a national program to make the international metric system the predominant but not exclusive system of measurement in the United States.

S. 2731

At the request of Mr. BENTSEN, the Senator from Pennsylvania (Mr. HUGH SCOTT) was added as a cosponsor of S. 2731 to amend the Tariff Schedules of the United States to provide for the duty-free entry of methanol imported for use as fuel.

SENATE JOINT RESOLUTION 174

At the request of Mr. ABOUREZK, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of Senate Joint Resolution 174, to direct the Interstate Commerce Commission to provide an equitable formula for the distribution of grain cars.

SENATE RESOLUTION 216—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON COMMERCE FOR INQUIRIES AND INVESTIGATIONS

(Referred to the Committee on Rules and Administration.)

Mr. MAGNUSON, from the Committee on Commerce reported the following original resolution:

S. RES. 216

Resolved, That section 2 of Senate Resolution 45, Ninety-third Congress, agreed to March 15, 1973, as amended, is amended by striking out "$1,300,000" and inserting in lieu thereof "$1,375,000".

FLOOD DISASTER PROTECTION ACT OF 1973—AMENDMENTS

AMENDMENTS NOS. 893 AND 894

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

Mr. BELLMON submitted two amendments intended to be proposed by him to the bill (H.R. 8449) to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes.

AMENDMENT NO. 895

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

Mr. STEVENS. Mr. President, the amendment which I am submitting today to H.R. 8449 increases the eligibility limits for flood insurance coverage for residential properties from $35,000 aggregate liability for single family dwellings to $50,000, and from $100,000 for any residential structure containing more than one dwelling unit to $150,000.

The inflated cost of living and the substantially higher housing costs in Alaska, as well as increasing national housing costs, require that these limits be increased so that those Alaskan areas affected by H.R. 8449 and subject to the procurement of flood insurance will be able to meet applicable conditions of insurability.

At present, 42 U.S.C. 4013 puts limits of flood insurance coverage of $17,500 aggregate liability for any dwelling unit, and $30,000 for any single dwelling structure of more than one unit. H.R. 8449 raises the limits to $35,000 and $100,000. I am convinced that increased housing costs in Alaska and other States, require that the limits be increased accordingly to the limits specified in my amendment. I am informed that the average cost of single family dwellings in Alaska is about $45,000. My amendment would increase liability limits to reflect the increasing costs both in Alaska and the rest of the Nation, and, therefore, extend the availability of coverage under this act.

WATER RESOURCES DEVELOPMENT AND RIVER BASIN MONETARY AUTHORIZATIONS ACT OF 1973—AMENDMENT

AMENDMENT NO. 896

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

Mr. HELMS (for himself and Mr. ERVIN) submitted an amendment intended to be proposed by them jointly to the bill (S. 2798) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME—AMENDMENT

AMENDMENT NO. 897

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

Mr. HARRY F. BYRD, JR., submitted an amendment intended to be proposed by him to the bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law abiding member of the international community.

LEGAL SERVICES CORPORATION ACT—AMENDMENTS

AMENDMENT NO. 898

Mr. COTTON submitted an amendment intended to be proposed by him to the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

INDEPENDENT SPECIAL PROSECUTOR ACT OF 1973—AMENDMENT

AMENDMENT NO. 899

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

Mr. MONDALE. Mr. President, although S. 2611, the Special Prosecutor bill, has been placed on the calendar and may not be taken up by the Senate until next session, I wish to submit an amendment to S. 2611 at this time so that my colleagues may review the amendment and so that it may be taken up by the Senate when, and if, S. 2611 is before this body.

My amendment adds a sentence to section 6 of the bill. It provides:

Notwithstanding any other provision of law, all personnel of the Special Prosecutor appointed by the Attorney General pursuant to regulation and holding office on the date of enactment of this Act or on the date on which the Special Prosecutor assumes office under this Act are transferred to the Special Prosecutor appointed under this Act. The Special Prosecutor appointed under this Act shall have the sole authority to discharge any personnel transferred under this subsection and to discharge any other personnel appointed by him.

During the last several days, we have witnessed a series of attacks on the special prosecution staff which Archibald Cox assembled and Leon Jaworski inherited. The attacks have originated in the White House and have been most bitter. For instance, Ronald Zeigler stated that members of the Special Prosecutor's staff have an "ingrained suspicion and visceral dislike for this President and this administration."

We all know about the events of October 20. The President caused Special Prosecutor Cox to be fired; Attorney General Elliot Richardson resigned because he would not fire Cox; and Deputy Attorney General William Ruckelshaus was also fired for refusing to fire Cox. The "Saturday Night Massacre" was precipitated by the President's refusal to surrender the so-called Watergate tapes and Special Prosecutor Cox's insistence on using the courts to force the surrender of the tapes.

Following the events of that weekend, an unprecedented public outcry arose. From around the country came letters, telegrams, phone calls, editorials, commentaries—all voicing public outrage over the events of the weekend. The events of that weekend created a sense of turmoil and outrage in this country that is still evident in the mail I receive daily. The country saw that a complete investigation of the Watergate affair was necessary, and they told the President that they would not tolerate sabotage of that investigation.

It may be that the recent criticisms of the Special Prosecutor's staff by the White House merely represent inadvertent outbursts caused by a sense of frustration over the events of the past months.

However, it may also be that the White House purge target is not the Special Prosecutor this time, but rather the Special Prosecutor's staff. I seriously doubt the legality of any plans the White House may have to fire members of the Special Prosecutor's staff. In addition, I am seriously dismayed if, in fact, thought is being given to such action.

No step could more easily throw this Nation back into the turmoil that we experienced over the weekend of October 20 than an attempt by the White House to tamper with the Special Prosecutor's staff. Such an action would only serve to further undermine the President's credibility and to further convince the public that a fair and complete Watergate investigation will never take place as long as this administration is in power.

In order to insure against such an eventuality, I am amending the bill to create an independent Special Prosecutor by adding a provision which vests the sole power to fire employees of the special prosecution force in the Special Prosecutor himself. Under the bill, he is already given the power to "appoint, fix the compensation, and assign the duties of such employees as he deems necessary." It seems obvious that he, and he alone, should have the power to discharge said employees. The recent attacks on the staff by the White House, and the possibility of Presidential interference with the staff that these attacks may portend, make the vesting of the sole power of discharge in the Special Prosecutor imperative.

The current Department of Justice guidelines give the Special Prosecutor this power. And any bill which the Congress passes to create an independent Special Prosecutor should contain a provision such as the one I am offering today.

The Special Prosecutor's staff consists of a group of talented, qualified, and dedicated individuals. The men and women on the Special Prosecutor's staff have the day-to-day responsibility for one of the most important criminal investigations in American history. Unfounded or unsupportable charges against the staff serve no useful national purpose. Attempts to purge the staff would be disastrous.

I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

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

AMENDMENT NO. 899

On page 14, line 1, insert "(a)" after "SEC. 6.".

On page 14, between lines 21-22, insert the following:

"(b) Notwithstanding any other provision of law, all personnel of the Special Prosecutor appointed by the Attorney General pursuant to regulation and holding office on the date of enactment of this Act or on the date on which the Special Prosecutor assumes office under this Act are transferred to the Special Prosecutor appointed under this Act. The Special Prosecutor appointed under this Act shall have the sole authority to discharge any personnel transferred under this subsection and to discharge any other personnel appointed by him.".

PRISONER OF WAR AND MISSING IN ACTION TAX ACT—AMENDMENTS

AMENDMENT NO. 900

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

Mr. BEALL. Mr. President, I am submitting an amendment I intend to offer to H.R. 8214. This amendment is identical to S. 2347, the Historical Structures Tax Act which I introduced on August 3, 1973. This legislation was referred to the Committee on Finance where it is currently pending. I would note, Mr. President, in closing, that S. 2347 has been cosponsored by Senators BIBLE, DOLE, DOMENICI, DOMINICK, GOLDWATER, JAVITS, MCINTYRE, METCALF, MOSS, PERCY, STEVENS, and TOWER.

AMENDMENT NO. 903

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

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

HOUSING ACT OF 1973—AMENDMENT

AMENDMENT NO. 901

(Referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. WEICKER. Mr. President, I am submitting an amendment to S. 2182, the proposed Revised Housing Act of 1973. As you know, this bill is now pending before the Committee on Banking, Housing and Urban Affairs, of which I am a member. The amendment which I am formally introducing today, and which I have already raised in the committee, would amend section 2A of the bill. This section, as now written, authorizes bond guarantees and interest subsidies for the taxable bonds issued by State housing finance agencies. This would be the first time that the Congress has specifically authorized support for, and assistance to, these State agencies, and I compliment Senator SPARKMAN for making this proposal in his original bill.

My proposed amendment would expand the scope and reach of section 2A. This is essential, given the present housing stalemate. The administration has proposed that the existing Federal production programs be terminated, to be replaced by a form of income support or housing allowances to the poor. While I am sympathetic to certain aspects of this approach and while I recognize that the old programs have their weaknesses and need reform, I am not convinced that there will be an adequate supply of housing and an adequate rate of housing construction for low-, moderate-, and middle-income families, unless there is some form of subsidy for housing production. Certainly, production incentives are necessary in areas of low vacancy and high

construction costs, such as my own State of Connecticut.

By the amendment I offer today, I have sought a middle ground, which would maintain some form of production subsidy—though a shallow one—available for use with the Federal interest subsidy programs, with the proposed program of leasing for low-income families, or with housing allowances. I would seek to use and to strengthen the State housing finance agencies for this purpose. There are now 31 such agencies, and they have become an important factor in the housing field. The staffs of these agencies are enthusiastic and anxious to get on with the job of developing housing. They are close to the problems of their States and to local needs. Moreover, the State agencies have a flexibility and a responsiveness which cannot always be achieved by HUD. At the present time, State housing finance agencies raise their money by floating tax-exempt bonds, and use the proceeds of those bond issues to make mortgage loans to housing sponsors at below-market interest rates. Up to now, the Federal Government has not supported their activities, except indirectly, by maintaining the tax-exempt status of their bonds.

We should be doing more for these increasingly important institutions. We should recognize that State housing finance agencies may represent the cheapest and most flexible manner by which to expand the supply of housing, and that it is in the national interest to help them do this job. My amendment goes beyond the present section 2A by allowing the State agencies to use their funds to support a range of housing, rather than just housing which is receiving Federal interest subsidies, under sections 235, 236 or successor programs. Moreover, my amendment would give these agencies maximum flexibility to carry out their programs, as long as their activities meet the general national objectives which are set forth. We would authorize a program of direct low-interest Federal loans to State housing finance agencies, so that they could raise their funds without floating bond issues and at the lowest possible cost. Those low costs could then be passed directly on to the sponsors and developers of the housing in the form of lower cost financing, and, through them on to the consumers of the housing, in the form of low rents or low purchase prices.

Specifically, the amendment would retain the original provisions of section 2(A) regarding Federal interest subsidies on taxable bonds issued by State housing finance agencies.

However, my amendment increases the flexibility of State housing finance agencies, by eliminating a provision which, in effect, forced States to only utilize this form of assistance in conjunction with the section 502 program.

Second, the Secretary would be authorized to make direct 4-percent Federal loans, which would have a maturity of 40 years to approved State housing finance agencies. The proceeds of such loans would be used in a revolving fund for the purpose of making low-interest mortgage loans.

Furthermore, the Secretary is given discretionary authority to require security for the repayment of the loans as he deems it appropriate. The amendment provides authorization levels of $100 million for fiscal year 1975, 1976, $150 million for fiscal year 1977, 1978, and $200 million for fiscal year 1979.

Thus, a State housing finance agency, which presently depends on tax exempt financing to establish their needed financial resources, would be offered additional forms of Federal assistance in supporting their efforts to stimulate housing production.

There are three other significant features of the amendment that I would like to mention. First, unlike S. 2182, in the direct loan program, the State would be the mortgagee of the housing projects and if a specific project defaults, the State agency would end up holding the mortgage. By requiring the States to assume the risk on an individual project, it will assure a close scrutiny by State housing finance agencies as to the feasibility of a proposed housing project. In utilizing the taxable bond mechanism, the Federal Government would only guarantee on a default of a bond issue, not a default on an individual project.

Second, the amendment details several eligibility requirements that must be met by State housing finance agencies in order to qualify for Federal assistance under this section. To be eligible for assistance, a State housing finance agency must meet the following important criteria:

First. It must operate in a State in which the Secretary has determined that the existing supply of housing is inadequate and the costs of development discourage the necessary housing construction by the private market;

Second, It must formulate and is implementing a State housing program which takes into account the housing needs of all persons, particularly those of low- and moderate-incomes and those displaced by governmental action;

Third. In providing housing assistance, it must establish priorities consistent with State, area-wide and local programs of community development, including programs of slum clearance, urban renewal, social and public services, transportation and environmental protection;

Fourth. In providing housing assistance, it must seek to avoid undue concentration of low-income families and to promote equal opportunities in housing;

Fifth. It must operate in a State in which public and private resources will be available to supplement its activities; and

Sixth. It has the capability and experience to carry out its program, and to utilize effectively the proceeds of the loans made available under this section.

Third, the Secretary is required to conduct an annual review and audit of the activities of approved State housing finance agencies. While State housing finance agencies are given the flexibility to determine their own priorities at housing needs my amendment institutes a proper degree of Federal oversight so as to insure that the Federal funds are effectively and prudently utilized. For if the Secretary determines the performance of the agencies failed to meet the requirements, previously set forth, the Secretary will no longer enter into any new commitment for Federal assistance until he is satisfied that the State housing finance agencies have complied with the general requirements.

Mr. President, I hope that we shall be successful in taking this first step this year. By beefing up these State agencies on an experimental basis, we will be in a position to consider a comprehensive program of support for State housing activities next year.

I ask unanimous consent to have my amendment printed in the RECORD.

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

AMENDMENT No. 901

Strike from page 6, line 21 through page 12, line 6 and substitute in lieu thereof the following:

"SEC. 2A. (a) The Secretary is authorized to guarantee, and enter into commitments to guarantee all or any portion of the payment of interest and premium, if any, to the holder of the bonds issued by or on behalf of State housing finance agencies approved by the Secretary pursuant to subsection (e) for the purpose of financing the acquisition of land and the construction or rehabilitation thereon of housing, particularly those of low- and moderate-income family. The Secretary may make such guarantees and enter into such commitments upon such terms and conditions contained in subsection (c), except that no bond shall be guaranteed under this section if income thereon is exempt from Federal taxation.

"(b) In the case of any bond guaranteed under subsection (a) of this section, the Secretary is authorized to make grants not to exceed 33⅓ per centum of the interest paid on such obligations. The aggregate amount of such grants may not exceed $100,000,000 prior to July 1 1975. There is authorized to be appropriated the sum of $100,000,000 for the purpose of making grants under this paragraph.

"(c) (1) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and premium. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the bonds for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed bond.

"(2) The Secretary shall take such steps as he considers reasonable to assure that bonds guaranteed under this section will—

"(A) be issued to 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;

"(B) contain or be subject to repayment maturity, and other provisions satisfactory to the Secretary; and

"(C) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by the Secretary relating to subrogation, liens and releases of liens, payments of taxes, escrow of trusteeship requirements, or other matters.

"(3) The Secretary is authorized to establish and collect fees for guarantees under this section, and may make such charges in connection with guarantees as he con-

siders reasonable for the analysis of applications appraisals, inspections, and other activities related to such assistance.

"(d) (1) The Secretary is authorized to make loans to any State housing finance agency approved by the Secretary pursuant to subsection (e) of this section. Any such loan shall bear interest at a rate of no more than 4 per centum per annum, shall have a maturity of not to exceed 40 years, and shall be subject to such terms and conditions as the Secretary may prescribe in order to carry out his functions under this subsection; provided, that the proceeds of such loans shall be used as a revolving fund for the purpose of making low-interest mortgage loans.

"(2) There is hereby authorized to carry out the purposes of this subsection not to exceed $100,000,000 for Fiscal Year '75 and Fiscal Year '76, $150,000,000 for Fiscal Year '77 and Fiscal Year '78 and $200,000,000 for Fiscal Year '79. To the maximum extent practicable the Secretary shall allocate amounts available under this subsection among approved State housing finance agencies, such allocation to be made on an equitable basis.

"(3) The Secretary may require such security for the repayment of the loans authorized by this subsection as he deems prudent and appropriate, including, but not limited to arrangements for the pledge of general or specific revenues of any approved State housing finance agency.

"(e) A State housing finance agency shall be approved for guarantees, interest subsidies and loans under this section, if such agency—

"(1) operates in a State in which the Secretary has determined that the existing supply of housing is inadequate and the costs of development discourage the necessary housing construction by the private market:

"(2) has formulated and is implementing a State housing program which takes into account the housing needs of all persons, particularly those of low and moderate incomes and those displaced by governmental action;

"(3) in providing housing assistance, shall establish priorities consistent with State, area-wide and local programs of community development, including programs of slum clearance, urban renewal, social and public services, transportation and environmental protection;

"(4) in providing housing assistance, seeks to avoid undue concentration of low-income families and to promote equal opportunities in housing;

"(5) operates in a State in which public and private resources will be available to supplement its activities; and

"(6) has the capability and experience to carry out its program and to utilize effectively the proceeds of the loans made available under this section.

"(f) If the Secretary, after an annual audit and review of the activities of all State housing finance agencies approved pursuant to subsection (e) of this section, finds that any such agency has failed to comply substantially with the requirements of said subsection, the Secretary, until he is satisfied that there is no longer any such failure to comply, shall enter into no new guarantees, or commitments to guarantee, or commitments for grants under subsection (b) or loans under subsection (d) of this section.

"(g) (1) The first paragraph of section 24 of the Federal Reserve Act is amended by inserting the following before the period at the end of the fourth sentence thereof: "or under section 2A of the Revised National Housing Act".

(2) The twelfth pargaraph of section 5(c) of the Homeowners' Loan Act of 1933 is amended by adding in the last sentence immediately after the words "or under part B of the Urban Growth and New Community Development Act of 1970" the following "or under section 2A of the Revised National Housing Act".

"(h) The interest paid on and received by the purchaser of any bond guaranteed under this section to which grants are made under subsection (b) (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954."

AMENDMENT OF THE EXPORT ADMINISTRATION ACT OF 1969

AMENDMENT NO. 902

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

Mr. HARTKE. Mr. President, I submit an amendment to H.R. 8547, an act to amend the Export Administration Act of 1969, and ask that it be printed.

Mr. President, in order to ease the present critical short supply of iron and steel scrap, I am submitting this amendment today to H.R. 8547, which would limit exports of this scarce commodity to 500,000 net tons per month for the remainder of fiscal year 1974. The amendment does exclude stainless steel scrap from these controls.

Almost all of our ferrous foundry industry and a significant part of the domestic steel industry use scrap iron and steel as their primary raw material. These industries are basic to the domestic economy of the United States. Foundries and steel plants now fear that in 1974, there will not only be tight supplies of iron and steel scrap, delays in receiving this material, and poorer quality scrap, but actual outages resulting in production cutbacks, or stopages.

In the last 5 years, the average total of exports and domestic consumption has been 43 million tons. Twice during this period we have experienced sharp price increases which reflected supply-demand imbalances. These imbalances occurred whenever the annual total of exports and domestic purchases exceeded 45 million tons.

In the latter part of 1972, scrap exports and domestic purchases climbed to a point where the supply-demand relationship was again strained. In late December, the price of No. 1 grades of scrap jumped sharply. Beginning in early 1973, scrap users indicated that the projections for scrap, both domestic and abnormally high foreign demand, were going to seriously affect both the supply and the already climbing price of ferrous scrap. An export level of 1 million tons per month coupled with domestic demands of 43.5 million tons for a total of 55.5 million tons for the year, was predicted.

Clearly some action by the Commerce Department, in accordance with the powers granted it under the Export Administration Act to limit the amount of scrap exports, was called for. On July 2, of this year, the Secretary of Commerce stated with regard to scrap exports and domestic supply—

I have determined that the criteria set forth in the Export Administration Act have been met for this commodity.

The act reads, in part, as follows:

SEC. 3. (2) It is the policy of the United States to use export controls . . . to the extent necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand.

Yet, in the months which followed this announcement, scrap exports have continued almost unrestricted. The third quarter of 1973, was the first time in many years that scrap exports had been controlled. Nevertheless, during this same period an all-time quarterly record was set for the amount of scrap iron and steel to go into exports.

During 1973, the domestic foundry and steel industries have been consuming scrap at a rate well in excess of anything this Nation has ever experienced. Simultaneously, we have been exporting scrap at record levels that are 50-percent higher than the average of the last 5 years. Our current rate of domestic consumption and our rate of scrap exports, if continued for the last 2 months of this year, will produce an annual total of approximately 56 million tons. This would be 10 million tons, or about 22 percent, more than this Nation has ever produced even under the stimulus of the high prices of 1969 and 1970. Late in September, the price of No. 1 heavy melting scrap increased by $13 per ton. It appears that we have been consuming inventories for months, and are now getting perilously close to the crisis point. On Monday, November 12, the Wall Street Journal reported that No. 1 grades of scrap were selling for $86 per ton, in comparison with $38 per ton a year ago. Some scrap is currently moving at prices well above the $86 figure.

So now we are faced with the very real possibility of production curtailments in these two basic industries. Alarm is now being sounded in the construction industry about shortages of steel reinforcing bars, traceable to the scrap metal problem. A principal producer of silos for the storage of agricultural products has stated that under existing conditions the silo industry will only be able to construct 5,000 silos during 1974, in contrast to the industry's capacity of 13,000 units, due to a shortage of scrap for the manufacture of nine-sixteenth-inch round steel for the construction of domestic silos. This could not come at a less fortunate time, when substantial new acreage is being planted to help restore a world supply demand balance for feed grains and other commodities.

A few weeks ago, a steel castings company in Detroit, Mich., wired the Department of Commerce that it was down to its last 3 days of supply of scrap metal, could obtain no more scrap metal, and if something was not done, would shut down. The administration reportedly contacted the Institute of Scrap Iron and Steel, which in turn contacted the original dealer who then offered only 25 tons of ferrous scrap to the casting firm at a price of $115 per ton. Hence, newspaper quotations of composite steel scrap price of $86 per ton would even appear to understate the current situation in certain cases.

One foundry in Indiana reports that it has been forced to shut down 2 full scheduled days due to a lack of cast

metal scrap. They are apparently operating on a day-to-day basis.

Another firm in Illinois telegraphs:

Presently unable to procure ferrous scrap at any price for our foundry consumption. Have curtailed operations. Shutdown is imminent if no scrap is received.

I do not know whether scrap dealers, acting at the urging of the administration, have moved to cover this foundry's needs.

Still another midwestern foundry reports a 16-percent reduction in operations due to inability to purchase ferrous scrap, and with an inventory of only a few days, shutdown may be imminent.

A Texas firm reports imminent shutdown of 2 of its foundries employing 400 people in Pennsylvania and New Jersey because no adequate scrap is available at any price.

If these basic industries, iron and steel, reduce schedules because of raw material shortages, the ripple effect into other industries will quickly follow.

Why, then, has action to control scrap iron and steel exports been ineffective? Why, in light of the July 2 finding, have scrap exports in the third quarter of 1973 been permitted to exceed those for any quarter in our history?

It should also be noted, at a time of critical national shortages of energy, that the use of scrap is a great conservation of this precious commodity.

Ferrous scrap requires substantially less energy to convert to steel than iron ore. A recent article in the American Metal Market reports a speech by E. F. Andrews, vice president of Allegheny Ludlum Industries, Inc., in which he calls attention to the tremendous loss of energy by permitting significant exports of ferrous scrap. Andrews stated that the energy required to convert ferrous scrap into an ingot ton of steel is 5.5 million British thermal units. When scrap is not available and iron ore is used, it requires 18-million British thermal units to produce an ingot ton of steel—a difference of 12.5 million British thermal units of energy. Ferrous scrap exports this year will total a record high of almost 12 million tons. Andrews calculates that this represents 150 trillion British thermal units of energy, equal to 6 million tons of coal, 25.5 million barrels of oil, 44 billion kilowatt hours of electricity or 150 billion cubic feet of gas.

Mr. President, I ask unanimous consent that this article be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. HARTKE. Mr. President, price increases for ferrous scrap of the magnitude we are witnessing have been increasing by about $1 billion the cost of operations of foundries and cold metal shops which use only one-fifth as much of our scarce energy supply to produce a ton of steel as do ore users. Ultimately, the American consumer pays for these increases.

Mr. President, the need for this amendment is clear. Potential adverse economic consequences grow more severe with each passing week. The Congress must meet its responsibilities and take corrective action immediately.

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

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

AMENDMENT NO. 902

At the end of the Act, insert the following new section:

SEC. 2. The Export Administration Act of 1969 is further amended by redesignating sections 10, 11, 12, 13, and 14 as sections 11, 12, 13, 14, and 15 respectively, and by inserting immediately after section 9, the following new section:

"Scrap Iron and Steel

"SEC. 10. (a) For the balance of fiscal year 1974, not more than five hundred thousand (500,000) tons of iron and steel scrap, with the exception of stainless steel scrap, may be exported each month from the United States, including the District of Columbia, the Canal Zone, Puerto Rico, and all territories, dependencies and possessions of the United States.

"(b) The Secretary of Commerce is directed to allocate the iron and steel scrap that may be exported under (a) of this section in such a way as to alleviate any problem of excess scrap that may occur in west coast states or New England states as a result of generating more iron and steel scrap than is locally consumed.

"(c) Nothing in this section shall prevent the Secretary of Commerce from using export controls to the extent necessary to protect the domestic economy from the excessive drain of scarce materials by restricting the export of scrap iron and steel sooner or to a greater extent than provided in this section in order to carry out the policy of the United States as set forth in this Act."

EXHIBIT 1

ANDREWS TAKES A LOOK AT SCRAP EXPORTS IN TERMS OF LOST COAL, OIL, GAS BTUS

PHILADELPHIA.—The heavy export of scrap iron has not only led to sharply higher prices on this vital raw material for steelmaking but also represents a substantial loss of energy, according to E. F. Andrews, vice-president, materials and services, Allegheny Ludlum Industries, Inc.

Addressing the Purchasing Management Association of Philadelphia last week, Andrews contended that the American steel industry will pay almost $1.5-billion more for scrap this year, and that each ton of scrap exported represents an energy "loss to the nation equal to 12.5-million BTUs."

In support of his charge that scrap exports represent a loss of energy, Andrews asserted: "The energy required to convert steel scrap into an ingot ton of steel is 5.5-million BTUs. When that scrap is not available and iron ore is used, it requires 18-million BTUs to produce an ingot ton of steel. Thus, when we deny ourselves by export an available ton of scrap, we have exported 12.5-million BTUs of energy."

Since scrap exports this year will be nearly 12-million tons, Andrews contended, they represent 150-trillion BTUs of energy, equal to 6-million tons of coal, 25.5-million barrels of oil, 44-billion kilowatt-hours of electricity or 150-billion cubic feet of gas.

"Thus," he declared, "we have exported enough energy to supply the total per capita needs of Oakland, Minneapolis, Louisville or Toledo. We have exported enough energy to heat 725,000 six-room houses for a full year. That is enough to heat the homes in Denver, Hartford, Des Moines, Boston and Newark for a year. We have exported enough energy to supply electrical power needs for the populations of Boston, Hartford, Pittsburgh, Philadelphia and Chicago combined, for one year."

Andrews, who is also chairman, Business Survey Committee, of the National Association of purchasing Management, told his audience that "purchasing management now possesses a new, and deeper, dimension. With America a have-not nation for the vast majority of critical metals and materials it needs, purchasing management must face up to what is happening in the country. We are closing off our supplies, dissipating our resources, and giving away our energy.

"During the past year, we have all been aware of the tremendous increase in the export of scrap," Andrews said. "We have been exporting carbon scrap at the rate of about 12-million tons per year. It is acknowledged that this has been the predominant, if not the sole cause, for the rapid rise in the price of scrap. Most reliable indicators show scrap prices have risen over $30 per ton. The United States consumes 45-million tons of purchased scrap annually. Therefore, total out-of-pocket price of scrap has risen $1,350 billion annualized.

"The value of the scrap exported is approximately $500 million. The value of the steel imported is $2 billion. While this unfavorable balance of trade is bad enough, it does not take into account that, when we export scrap, "we must reach to a foreign country to purchase virgin units of iron, nickel, chrome, manganese, etc., to replace the units lost in the scrap export."

SOCIAL SECURITY BENEFITS INCREASE—AMENDMENTS

AMENDMENTS NOS. 904 THROUGH 911

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

Mr. HARTKE. Mr. President, today I submit a series of amendments to H.R. 11333, a bill providing for increases in social security and supplementary security income which passed the House of Representatives on November 15 of this year.

Without going into detail on the substance of each of these amendments, I will summarize them at this time.

First. An amendment to provide for an immediate 7-percent social security benefit increase, with a full 11-percent increase to be effective in June 1974. This is identical to the provision recently passed by the Senate in H.R. 3153 but which is now endangered by opposition from the House of Representatives. Members of the House have indicated that Senate action on a benefit increase would be more appropriate with regard to H.R. 11333 than as an amendment to H.R. 3153.

Second. An amendment to provide for coverage of out-of-hospital prescription drugs under medicare. A similar amendment was added by the Senate to H.R. 3153, but it, too, is endangered by opposition from the House.

Third. An amendment to liberalize disability provisions of the Social Security Act which apply to blind persons. This is a provision which has passed the Senate on at least six occasions in recent years, the most recent as an amendment to H.R. 3153. It, too, is endangered by opposition to the House. As in the case of the previous two amendments, H.R. 11333 may be a more appropriate vehicle for amendment than was H.R. 3153.

Fourth. An amendment to provide for eye, ear and dental coverage under medicare. This is siimlar to a provision passed by the Senate last year but dropped in conference with the House.

Fifth. An amendment to reduce social security payroll taxes for low-income wage earners so as to reduce the heavy burden which the current working generation has to pay to shoulder the burden for the cost of benefits being given to those already retired.

Sixth. An amendment to allow Federal employees the right to elect social security coverage in addition to their present right to elect coverage under the civil service retirement system.

Seventh. An amendment to allow social security benefits to be given to a disabled wife or husband of a retired worker, even if the disabled person has not yet reached age 62.

Eighth. An amendment to provide for full coverage for the services of independent practitioners of psychology under medicare.

Mr. President, most of these proposals are measures which I have offered for several years. The time is long overdue for their enactment.

I ask unanimous consent that the text of each of my amendments be printed in the RECORD following my remarks.

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

Amendments 906, 908, and 909 are not included in today's RECORD.

AMENDMENT No. 904

Strike all beginning with page 1, line 3 through and including page 18, line 19, and insert in lieu thereof:

INTERIM COST-OF-LIVING INCREASE IN SOCIAL SECURITY BENEFITS

SEC. 1. (a) Section 201 of Public Law 93-66 is amended—

(1) in subsection (a)(1), by striking out "the percentage by which the Consumer Price Index prepared by the Department of Labor for the month of June 1973 exceeds such index for the month of June 1972" and inserting in lieu thereof "7 per centum",

(2) in subsection (a)(2), by striking out "after May 1974 and prior to January 1975, and, in the case of lump-sum death payments under such title, only with respect to deaths which occur after May 1974 and prior to January 1975" and inserting in lieu thereof "with respect to which this section is effective, and, in the case of lump-sum death payments under such title, only with respect to deaths which occur in months with respect to which this section is effective",

(3) in subsection (b), by striking out "based on the increase in the Consumer Price Index described in subsection (a)" and inserting in lieu thereof "7 per centum", and

(4) in subsection (c)(2), by striking out "(except for purposes of section 203(a)(2) of such Act, as in effect after May 1974)" and inserting in lieu thereof "except for purposes of section 203(a) of such Act, as in effect after December 1973, which section (as so in effect) shall, for purposes of the increase in social security benefits provided by this section, be deemed to be in effect for and after the first month with respect to which such increase is effective)".

(b) Section 201 of Public Law 93-66 is further amended by adding at the end thereof the following new subsection:

"(e) For purposes of subsection (a)(2), this section is effective with respect to the month in which this subsection is enacted and for each month thereafter which begins prior to June 1974.".

ELEVEN-PERCENT INCREASE IN SOCIAL SECURITY BENEFITS

SEC. 2. (a) Section 215(a) of the Social Security Act is amended by striking out the table and inserting in lieu thereof the following:

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

"I (Primary insurance benefit under 1939 act, as modified)		II (Primary insurance amount effective for September 1972)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
"If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 205(a)) on the basis of his wages and self-employment income shall be—
"At least—	But not more than—		At least—	But not more than—		
"----------	$16.20	$84.50	----------	$76	$93.80	$140.80
$16.21	16.84	85.80	$77	78	95.50	143.00
16.85	17.60	87.80	79	80	97.50	146.30
17.61	18.40	89.40	81	81	99.30	149.00
18.41	19.24	91.00	82	83	101.10	151.70
19.25	20.00	92.90	84	85	103.20	154.80
20.01	20.64	94.60	86	87	105.10	157.70
20.65	21.28	96.20	88	89	106.80	160.20
21.29	21.88	98.10	90	90	108.90	163.40
21.89	22.23	99.80	91	92	110.80	166.20
22.29	22.68	101.40	93	94	112.60	169.00
22.69	23.08	103.00	95	96	114.40	171.60
23.09	23.44	104.90	97	97	116.50	174.80
23.45	23.76	106.70	98	99	118.50	177.80
23.77	24.20	108.80	100	101	120.80	181.20
24.21	24.60	110.50	102	102	122.50	183.80
24.61	25.00	112.10	102	104	124.50	186.80
25.01	25.48	114.20	105	106	126.80	190.20
25.49	25.92	116.00	107	107	128.80	193.20
25.93	26.40	117.90	108	109	133.90	196.40
26.41	26.94	119.70	110	113	132.90	199.40
26.95	27.46	121.40	114	118	134.80	202.20
27.47	28.00	123.30	119	122	136.90	205.40
28.01	28.68	125.10	123	127	138.90	203.40
28.69	29.25	127.10	128	132	141.10	211.70
29.26	29.68	123.80	135	136	143.00	214.50
29.69	30.56	130.50	137	141	144.90	217.40
30.57	30.92	132.50	142	146	147.10	220.70
30.93	31.36	134.50	147	150	149.10	223.70
31.37	32.00	136.00	151	155	151.00	226.50
32.01	32.60	138.00	156	160	153.20	229.80
32.61	33.20	139.70	161	164	155.10	232.70
33.21	33.88	141.60	165	169	157.20	235.80
33.89	34.50	143.40	170	174	159.20	238.90
34.51	35.00	145.20	175	178	161.20	241.80
35.01	35.80	147.20	179	183	163.40	245.10
35.81	36.40	148.80	184	188	165.20	247.80
36.41	37.08	150.90	189	193	167.50	251.40
37.09	37.60	152.70	194	197	169.50	254.40
37.61	38.20	154.40	198	202	171.40	257.10
38.21	39.12	156.40	203	207	173.70	260.60
39.13	39.68	158.20	208	211	175.70	263.60
39.69	40.33	159.80	212	216	177.40	266.10
40.34	41.12	161.80	217	221	179.60	269.40
41.13	41.76	163.80	232	225	181.60	272.40
$41.77	$42.44	$165.50	$226	$230	$183.80	$275.70
42.45	43.20	167.50	231	235	184.80	278.70
43.21	43.76	169.40	236	239	188.10	282.20
43.77	44.44	171.00	240	244	189.90	286.20
44.45	44.88	172.70	245	249	191.70	292.10
44.89	45.60	174.80	250	253	194.10	296.80
		176.60	254	258	196.10	302.60
		178.10	259	263	197.70	308.40
		180.20	264	267	200.10	313.10
		182.00	268	272	202.10	319.00
		183.90	273	277	204.20	324.80
		185.70	278	281	206.20	329.50
		187.50	282	286	208.20	335.40
		189.50	287	291	210.40	341.30
		191.10	292	295	212.20	345.90
		193.10	296	300	214.40	351.70
		194.90	301	305	216.40	357.60
		196.60	306	309	218.30	362.40
		198.60	310	314	220.50	368.20
		200.30	315	319	222.40	374.10
		202.00	320	323	224.30	378.80
		204.00	324	328	226.50	384.70
		205.80	329	333	228.50	390.50
		207.90	334	337	230.80	395.20
		209.40	338	342	232.50	401.00
		211.20	343	347	234.50	406.90
		213.30	348	351	236.80	411.50
		215.00	352	356	238.70	417.40
		217.00	357	361	240.90	423.30
		218.70	362	365	242.80	428.00
		220.40	366	370	244.70	433.80
		222.40	371	375	246.90	439.60
		224.20	376	379	248.90	444.50
		226.20	380	384	251.10	450.30
		227.80	385	389	252.90	456.10
		229.60	390	393	254.90	460.80
		231.60	394	398	257.10	466.70
		233.30	399	403	259.00	472.60
		235.40	404	407	261.30	477.20
		236.90	408	412	263.00	483.10
		238.60	413	417	264.90	488.90
		240.30	418	421	266.80	493.60
		242.20	422	426	268.90	499.40
		243.80	427	431	270.70	505.30
		245.40	432	436	272.40	511.20

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

"I (Primary Insurance benefit under 1939 act, as modified)		II (Primary insurance amount effective for September 1972)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
"If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 205(a)) on the basis of his wages and self-employment income shall be—
"At least—	But not more than—		At least—	But not more than—		
		$247.40	$437	$440	$274.70	$513.50
		248.90	441	445	276.30	516.50
		250.60	446	450	278.20	519.40
		252.50	451	454	280.30	521.70
		254.10	455	459	282.10	524.60
		255.80	460	464	284.00	527.50
		257.40	465	468	285.80	530.00
		259.40	469	473	288.00	532.80
		260.90	474	478	289.60	535.80
		262.60	479	482	291.50	538.20
		264.50	483	487	293.60	541.20
		266.10	488	492	295.40	544.10
		267.80	493	496	297.30	546.40
		269.70	497	501	299.40	549.30
		271.20	502	506	501.10	552.10
		272.90	507	510	503.00	554.60
		274.60	511	515	504.90	557.50
		276.40	516	520	306.90	560.50
		278.10	521	524	308.70	562.70
		279.80	525	529	310.60	565.70
		281.70	530	534	312.70	568.60
		283.20	535	538	314.40	571.00
		284.90	539	543	316.30	573.90
		286.80	544	548	318.40	576.80
		288.40	549	553	320.20	579.80
		290.10	554	556	322.10	581.50
		291.50	557	560	323.60	583.00
		293.10	561	563	325.40	585.70
		294.60	564	567	327.10	588.00
		296.20	568	570	328.80	589.80
		297.60	571	574	330.40	592.00
		299.20	575	577	332.20	593.90
		300.60	578	581	333.70	596.10
		302.20	582	584	335.50	597.90
		303.60	585	588	337.00	600.30
		305.30	589	591	338.90	602.00
		306.80	592	595	340.60	604.40
		308.30	596	598	342.30	606.10
		309.80	599	602	343.90	608.60
		311.30	603	605	345.60	610.30
		312.80	606	609	347.30	612.50
		314.40	610	612	349.00	614.40
		315.90	613	616	350.70	616.70
		317.40	617	620	352.40	619.10
		318.90	621	623	354.00	620.80
		320.40	624	627	355.70	623.20
		321.90	628	630	357.40	625.30
		323.40	631	634	359.00	628.40
		325.00	635	637	360.80	631.30
		326.00	638	641	362.60	634.40
		328.00	642	644	364.10	637.20
		329.60	645	648	365.90	640.30
		331.00	649	652	367.50	643.10
		332.00	653	656	368.60	645.00
		332.90	657	660	369.60	646.70
		334.10	661	665	370.90	649.10
		335.30	666	670	372.20	651.40
		336.50	671	675	373.60	653.70
		337.70	676	680	374.90	656.10
		338.90	681	685	376.20	658.40
		340.10	686	690	377.60	660.70
		341.30	691	695	378.90	663.10
		342.50	696	700	380.20	665.40
		543.70	701	705	381.60	667.70
		344.90	706	710	382.90	670.00
		346.10	711	715	384.20	672.40
		347.30	716	720	385.60	674.70
		348.50	721	725	386.90	677.00
		349.70	726	730	388.20	679.40
		350.90	731	735	389.50	681.70
		352.10	736	740	390.90	684.00
		53.30	741	745	392.20	686.40
		$354.50	$746	$750	$393.50	$688.70
		355.50	751	755	394.70	690.70
		356.50	756	760	395.80	692.60
		357.50	761	765	396.90	694.60
		358.50	766	770	398.00	696.50
		359.50	771	775	399.10	698.50
		360.50	776	780	400.20	700.30
		361.50	781	785	401.30	702.30
		362.50	786	790	402.40	704.20
		363.50	791	795	405.50	706.20
		364.50	796	800	404.60	708.10
		365.50	801	805	405.80	710.10
		366.50	806	810	406.90	712.00
		367.50	811	815	408.00	714.00
		368.50	816	820	409.10	715.90
		369.50	821	825	410.20	717.90
		370.50	826	830	411.30	719.80
		371.50	831	835	412.40	721.80
		372.50	836	840	413.50	723.70
		373.50	841	845	414.60	725.70
		374.50	846	850	415.70	727.50
		375.60	851	855	416.90	729.50
		376.50	856	860	418.00	731.40
		377.50	861	865	419.10	733.40
		378.50	866	870	420.20	735.30
		379.50	871	875	421.30	737.30
		380.50	876	880	422.40	739.20
		381.50	881	885	423.50	741.20
		382.50	886	890	424.60	743.10
		383.50	891	895	425.70	745.10
		384.50	896	900	426.80	747.00
		385.60	901	905	428.00	749.00
		386.50	906	910	429.10	750.90
		387.50	911	915	430.20	752.90
		388.50	916	920	431.30	754.70
		389.50	921	925	432.40	756.70
		390.50	926	930	433.50	758.60
		391.50	931	935	434.60	760.60
		392.50	936	940	435.70	762.50
		393.50	941	945	436.80	764.50
		394.50	946	950	437.90	766.40
		395.50	951	955	439.10	768.40
		396.50	956	960	440.20	770.30
		397.50	961	965	441.30	772.30
		398.50	966	970	442.40	774.20
		399.50	971	975	443.50	776.20
		400.50	976	890	444.60	778.00
		401.50	981	985	445.70	780.00
		402.50	986	990	446.80	781.90
		403.50	991	995	447.90	783.90
		404.50	996	1,000	449.00	785.80
			1,001	1,005	450.00	787.50
			1,006	1,010	451.00	789.30
			1,011	1,015	452.00	791.00
			1,016	1,020	453.00	792.80
			1,021	1,025	454.00	794.50
			1,026	1,030	455.00	796.30
			1,031	1,035	456.00	798.00
			1,036	1,040	457.00	799.80
			1,041	1,045	458.00	801.50
			1,046	1,050	459.00	803.30
			1,051	1,055	460.00	805.00
			1,056	1,060	461.00	806.80
			1,061	1,065	462.00	808.50
			1,066	1,070	463.00	810.30
			1,071	1,075	464.00	812.00
			1,076	1,080	465.00	813.80
			1,081	1,085	466.00	815.50
			1,086	1,090	467.00	817.30
			1,091	1,095	468.00	819.00
			1,096	1,100	469.00	820.80.'

(b)(1) Effective June 1, 1974, sections 227 and 228 of the Social Security Act are amended by striking out "$58.00" wherever it appears and inserting in lieu thereof "the larger of $64.40 or the amount most recently established in lieu thereof under section 215(i)", and by striking out "$29.00" wherever it appears and inserting in lieu thereof "the larger of $32.20 or the amount most recently established in lieu thereof under section 215(i)".

(2) Section 202(a)(4) of Public Law 92-336 is hereby repealed.

(c) The amendment made by subsection (a) shall apply with respect to monthly benefits under title II of the Social Security Act for months after May 1974, and with respect to lump-sum death payments under section 202(i) of such act in the case of deaths occurring after such month.

(d) Section 202(a)(3) of Public Law 92-336 is amended by striking out "January 1, 1975" in subparagraphs (A), (B), and (C) and inserting in lieu thereof in each instance "June 1, 1974".

MODIFICATION OF COSTS-OF-LIVING BENEFIT INCREASE PROVISIONS

SEC. 3. (a) Clause (i) of section 215(i)(1)(A) of the Social Security Act is amended to read as follows: "(i) the calendar quarter ending on March 31 in each year after 1974, or".

(b) Clause (ii) of section 215(i)(1)(B) of such act is amended by striking out "in which a law" and all that follows and inserting is lieu thereof "if in the year prior to such year a law has been enacted providing a general benefit increase under this title or if in such prior year a benefit increase becomes effective; and".

(c) Section 215(i)(2)(A)(i) of such act is amended by striking out "1974" and inserting in lieu thereof "1975", and by striking out "and to subparagraph (E) of this paragraph".

(d) Section 215(i)(2)(A)(ii) of such Act is amended—

(1) by striking out "such base quarter" and inserting in lieu thereof "the base quarter in any year";

(2) by striking out "January of the next calendar year" and inserting in lieu thereof "June of such year";

(3) by striking out "(subject to subparagraph (E))": and

(4) by striking out "(but not including a primary insurance amount determined under subsection (a)(3) of this section)".

(e) Section 215(i)(2)(B) of such Act is amended by striking out "December" each place it appears and inserting in lieu thereof "May", and, by striking out "(subject to subparagraph (E))".

(f) Section 215(i)(2)(C)(ii) of such Act is amended by striking out "on or before August 15 of such calendar year" and inserting in lieu thereof "within 30 days after the close of such quarter".

(g) Section 215(i)(2)(D) of such Act is amended by striking out "on or before November 1 of such calendar year" and inserting in lieu thereof "within 45 days after the close of such quarter".

(h) Section 215(i)(2) of such Act is amended by striking out subparagraph (E).

(i) For purposes of section 203(f)(8) of the Social Security Act, so much of section 215(i)(1)(B) of such Act as follows the semicolon, and section 230(a) of such Act, the increase in benefits provided by section 102 of this Act shall be considered an increase under section 215(i) of the Social Security Act.

(j)(1) Section 230(a) of such Act is amended—

(A) by striking out "with the first month of the calendar year" and inserting in lieu thereof "with the June"; and

(B) by striking out "(along with the publication of such benefit increase as required by section 215(i)(2)(D))" and by striking out "(unless such increase in benefits is prevented from becoming effective by section 215(i)(2)(E))".

(2) Section 230(c) of such Act is amended by striking out "the first month" and inserting in lieu thereof "the June".

(k)(1) Section 203(f)(8)(A) of such Act is amended to read as follows:

"(A) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the month of June following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increse is effective, with respect to such individual's taxable year which ends, upon his death, during such year).".

(2) Section 203(f)(8)(B) of such Act is amended by striking out "no later than August 15 of such year" and inserting in lieu thereof "within 30 days after the close of the base quarter (as defined in section 215(i)(1)(A)) in such year".

(3) Section 203(f)(8)(C) is amended by striking out "or providing a general benefit increase under this title (as defined in section 215(i)(3))".

(l)(1) Section 215(a)(3) of the Social Security Act is amended by striking out "$8.50" and inserting in lieu thereof "the larger of $9.50 or the amount most recently established in lieu thereof under section 215(i)".

(2) The amendment made by paragraph (1) shall apply with respect to monthly benefits under title II of the Social Security Act for months after May 1974, and with respect to lump-sum death payments under section 202(i) of such Act in the case of deaths occurring after such month.

INCREASE IN EARNINGS BASE

SEC. 4. (a) (1) Section 209(a)(8) of the Social Security Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(2) Section 211(b)(1)(H) of such Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(3) Sections 213(a)(2)(ii) and 213(a)(2)(iii) of such Act are each amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(4) Section 215(e)(1) of such Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(b)(1) Section 1402(b)(1)(H) of the Internal Revenue Code of 1954 (relating to definition of self-employment income) is amended by striking out "$12,600" and inserting in lieu thereof "$13,200.

(2) Effective with respect to remuneration paid after 1973, section 3121(a)(1) of such Code is amended by striking out the dollar amount each place it appears therein and inserting in lieu thereof "$13,200".

(3) Effective with respect to remuneration paid after 1973, the second sentence of section 3122 of such Code is amended by striking out the dollar amount and inserting in lieu thereof "$13,200".

(4) Effective with respect to remuneration paid after 1973, section 3125 of such Code is amended by striking out the dollar amount each place it appears in subsections (a), (b), and (c) and inserting in lieu thereof "$13,200".

(5) Section 6413(c)(1) of such Code (relating to special refunds of employment taxes) is amended by striking out "$12,600" each place it appears and inserting in lieu thereof "$13,200".

(6) Section 6413(c)(2)(A) of such Code (relating to refunds of employment taxes in the case of Federal employees) is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(7) Effective with respect to taxable years beginning after 1973, section 6654(d)(2)(B)(ii) of such Code (relating to failure by individual to pay estimated income tax) is amended by striking out the dollar amount and inserting in lieu thereof "$13,200".

(c) Section 230(c) of the Social Security Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(d) Paragraphs (2)(C), (3)(C), (4)(C), and (7)(C) of section 203(b) of Public Law 92-336 are each amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(e) The amendments made by this section, except subsection (a)(4), shall apply only with respect to remuneration paid after, and taxable years beginning after, 1973. The amendments made by subsection (a)(4) shall apply with respect to calendar years after 1973.

(f) The amendments made by this section to provisions of the Social Security Act, the Internal Revenue Code of 1954, and Public Law 92-336 shall be deemed to be made to such provisions as amended by section 203 of Public Law 93-66.

CHANGES IN TAX SCHEDULES

SEC. 5. (a)(1) Section 3101(a) of the Internal Revenue Code of 1954 (relating to rate of tax on employees for purposes of old-age survivors, and disability insurance) is amended by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) with respect to wages received during the calendar year 1973, the rate shall be 4.85 percent;

"(5) with respect to wages received during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

"(6) with respect to wages received after December 31, 2010, the rate shall be 5.95 percent."

(2) Section 3111(a) of such Code (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) with respect to wages paid during the calendar year 1973, the rate shall be 4.85 percent;

"(5) with respect to wages paid during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

"(6) with respect to wages paid after December 31, 2010, the rate shall be 5.95 percent.".

(b)(1) Section 1401(b) of such Code (relating to rate of tax on self-employment income for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) in the case of any taxable year beginning after December 31, 1972, and before January 1, 1974, the tax shall be equal to 1.0 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1973, and before January 1, 1978, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 1.10 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year; and

"(6) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.50 percent of the self-employment income for such taxable year."

(2) Section 3101(b) of such Code (relating to rate of tax on employees for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages received during the calendar year 1973, the rate shall be 1.0 percent;

"(3) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

"(4) with respect to wages received during the calendar years 1978 through 1980, the rate shall be 1.10 percent;

"(5) with respect to wages received during the calendar years 1981 through 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages received after December 31, 1985, the rate shall be 1.50 percent.".

(3) Section 3111(b) of such Code (relating to rate of tax on employers for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages paid during

the calendar year 1973, the rate shall be 1.0 percent;

"(3) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

"(4) with respect to wages paid during the calendar years 1978 through 1980, the rate shall be 1.10 percent;

"(5) with respect to wages paid during the calendar years 1981 through 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages paid after December 31, 1985, the rate shall be 1.50 percent.".

(c) The amendment made by subsection (b)(1) shall apply only with respect to taxable years beginning after December 31, 1973. The remaining amendments made by this section shall apply only with respect to remuneration paid after December 31, 1973.

ALLOCATION TO DISABILITY INSURANCE TRUST FUND

SEC. 6. (a) Section 201(b)(1) of the Social Security Act is amended by striking out "(E)" and all that follows down through "which wages" and inserting in lieu thereof the following: "(E) 1.1 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, 1974, and so reported, (F) 1.15 per centum of the wages (as so defined) paid after December 31, 1973, and before January 1, 1978, and so reported, (G) 1.2 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1981, and so reported, (H) 1.3 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1986, and so reported, (I) 1.4 per centum of the wages (as so defined) paid after December 31, 1985, and before January 1, 2011, and so reported, and (J) 1.7 per centum of the wages (as so defined) paid after December 31, 2010, and so reported, which wages".

(b) Section 201(b)(2) of such Act is amended by striking out "(E)" and all that follows down through "which self-employment income" and inserting in lieu thereof the following: "(E) 0.795 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1972, and before January 1, 1974, (F) 0.815 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1973, and before January 1, 1978, (G) 0.850 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1981, (H) 0.920 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1986, (I) 0.990 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1985, and before January 1, 2011, and (J) 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2010, which self-employment income".

AMENDMENT NO. 905

At the end thereof, add the following new section:

PAYROLL TAX FOR LOW-INCOME INDIVIDUALS

SEC. —. (a) Section 3101 of the Internal Revenue Code of 1954 (relating to tax on employees) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE TAX ON LOW-INCOME INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual whose adjusted social security income for the calendar year is less than $850, there is hereby imposed on the income of such individual (in lieu of the taxes imposed by subsections (a) and (b)) a tax determined under the following table:

"If the adjusted social security income is:	The tax is the following percentage of the taxes imposed by subsections (a) and (b):
Less than 0	10 percent.
0 to $49	15 percent.
$50 to $99	20 percent.
$100 to $149	25 percent.
$150 to $199	30 percent.
$200 to $249	35 percent.
$250 to $299	40 percent.
$300 to $349	45 percent.
$350 to $399	50 percent.
$400 to $449	55 percent.
$450 to $499	60 percent.
$500 to $549	65 percent.
$550 to $599	70 percent.
$600 to $649	75 percent.
$650 to $699	80 percent.
$700 to $749	85 percent.
$750 to $799	90 percent.
$800 to $849	95 percent.

"(2) ADJUSTED SOCIAL SECURITY INCOME.—For purposes of this subsection, the adjusted social security income of an individual for any calendar year is his adjusted gross income for his taxable year beginning in such calendar year (determined under section 62), minus the sum of—

"(A) $1,300, and

"(B) the amount of personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages or self-employment income during such year, his adjusted gross income and the number of exemptions to which he is entitled shall, for purposes of this paragraph, be determined as if he were not married."

(2) Section 3102 of such Code (relating to deduction of tax from wages) is amended by adding at the end thereof the following new subsection:

"(d) WITHHOLDING ON WAGES OF LOW INCOME INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual whose adjusted wages are less than $850 (computed at an annual rate), the employer of such individual shall deduct from the wages paid (in lieu of the amount required to be deducted under subsection (a)) an amount of the tax imposed by section 3101 determined under the following table:

"If the adjusted wages (computed at an annual rate) are:	The amount to be deducted is the following percentage of the amount required to be deducted under subsection (a):
Less than 0	10 percent.
0 to $49	15 percent.
$50 to $99	20 percent.
$100 to $149	25 percent.
$150 to $199	30 percent.
$200 to $249	35 percent.
$250 to $299	40 percent.
$300 to $349	45 percent.
$350 to $399	50 percent.
$400 to $449	55 percent.
$450 to $499	60 percent.
$500 to $549	65 percent.
$550 to $599	70 percent.
$600 to $649	75 percent.
$650 to $699	80 percent.
$700 to $749	85 percent.
$750 to $799	90 percent.
$800 to $849	95 percent.

"(2) ADJUSTED WAGES.—For purposes of this subsection, the adjusted wages of an individual for any period is the amount of wages (adjusted to an annual rate), minus the sum of—

"(A) $1,300, and

"(B) the amount of personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages during such period, the number of exemptions to which he is entitled shall be determined as if he were not married.

"(3) CREDIT AGAINST TAX.—Amounts deducted from the wages of an employee under this subsection shall be allowed as a credit against the tax imposed on the employee under section 3101.

"(4) WITHHOLDING CERTIFICATES.—Each employee shall furnish his employer with a signed certificate setting forth such information as is necessary to enable the employer to determine whether this subsection is applicable to him, and the amount of tax to be deducted under this subsection. Such certificate shall be in such form, shall be furnished at such time or times, and shall remain in effect for such period as the Secretary or his delegate prescribes by regulations.

"(5) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 3101(c)."

(b) Section 1401 of the Internal Revenue Code of 1954 (relating to rate of tax on self-employment income) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE TAX ON LOW-INCOME INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual whose adjusted social security income for the taxable year is less than $850, there is hereby imposed on the self-employment income of such individual (in lieu of the taxes imposed by subsections (a) and (b) a tax determined under the following table:

"If the adjusted social security income is:	The tax is the following percentage of the taxes imposed by subsections (a) and (b):
Less than 0	10 percent.
0 to $49	15 percent.
$50 to $99	20 percent.
$100 to $149	25 percent.
$150 to $199	30 percent.
$200 to $249	35 percent.
$250 to $299	40 percent.
$300 to $349	45 percent.
$350 to $399	50 percent.
$400 to $449	55 percent.
$450 to $499	60 percent.
$500 to $549	65 percent.
$550 to $599	70 percent.
$600 to $649	75 percent.
$650 to $699	80 percent.
$700 to $749	85 percent.
$750 to $799	90 percent.
$800 to $849	95 percent.

"(2) ADJUSTED SOCIAL SECURITY INCOME.—For purposes of this subsection, the adjusted social security income of an individual for any taxable year is his adjusted gross income for such year (determined under section 62), minus the sum of—

"(A) $1,300, and

"(B) the amount of the personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages or self-employment income during each year, his adjusted gross income and the number of exemptions to which he is entitled shall, for purposes of this paragraph, be determined as if he were not married."

(c) Section 31(b) of the Internal Revenue Code of 1954 (relating to credit for special refunds of social security tax) is amended by striking out the heading and paragraph (1) and inserting in lieu thereof the following:

"(b) CREDIT FOR EXCESS WITHHOLDING OF SOCIAL SECURITY TAX.—

"(1) IN GENERAL.—The Secretary or his delegate may prescribe regulations providing for the crediting against the tax imposed by this subtitle of amounts deducted under

section 3102 from the wages paid to the taxpayer in excess of the tax imposed on such wages by section 3101, including the amount determined by the taxpayer or the Secretary or his delegate to be allowable under section 6413(c) as a special refund of such tax. The amount allowable as a credit under such regulations shall, for purposes of this subtitle, be considered an amount withheld at source at tax under section 3402."

(d) There is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Health Insurance Trust Fund amounts (as determined by the Secretary of the Treasury) equal to losses of revenues of such trust funds resulting from the application of sections 3101(c) and 1401(c) of the Internal Revenue Code of 1954. The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the respective trust funds on the basis of estimates by the Secretary of the Treasury. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the amounts which should have been transferred.

PARTIAL GENERAL FINANCING OF RETIREMENT BENEFITS

SEC. 7. (a) In addition to any other funds appropriated or authorized to be appropriated pursuant to other provisions of law for any fiscal year to the Federal Old-Age and Survivors Insurance Trust Fund, and in addition to any other funds authorized by other provisions of law to be appropriated to or deposited in the Federal Disability Insurance Trust Fund for any fiscal year, there are authorized to be appropriated to each of such funds the following amounts:

(1) For the fiscal year ending June 30, 1974, an amount equal to one twenty-fifth of the expenditures from such fund for such year;

(2) For the fiscal year ending June 30, 1975, an amount equal to three-fiftieths of the expenditures from such fund for such year;

(3) For the fiscal year ending June 30, 1976, an amount equal to two twenty-fifths of the expenditures from such fund for such year;

(4) For the fiscal year ending June 30, 1977, an amount equal to one-tenth of the expenditures from such fund for such year;

(5) For the fiscal year ending June 30, 1978, an amount equal to three twenty-fifths of the expenditures from such fund for such year;

(6) For the fiscal year ending June 30, 1979, an amount equal to seven-fiftieths of the expenditures from such fund for such year;

(7) For the fiscal year ending June 30, 1980, an amount equal to four twenty-fifths of the expenditures from such fund for such year;

(8) For the fiscal year ending June 30, 1981, an amount equal to nine-fiftieths of the expenditures from such fund for such year; and

(9) For any fiscal year ending after June 30, 1981, an amount equal to one-fifth of the expenditures from such fund for such year.

(b)(1) Funds authorized to be appropriated under subsection (a) shall be appropriated for any fiscal year on the basis of estimates by the Congress of the amounts which will be expended for such year from the trust fund to which funds are being appropriated, reduced, or increased to the extent of any overappropriation or underappropriation under this section to such fund for any preceding year with respect to which adjustment has not already been made.

(2) The Secretary of Health, Education, and Welfare shall furnish to the Congress such information, data, and actuarial studies as may be appropriate to enable the Congress to make the estimates referred to in paragraph (1).

HOSPITAL INSURANCE BENEFITS UNDER PART A OF MEDICARE FOR UNINSURED INDIVIDUALS WHO HAVE ATTAINED AGE 65

SEC. 8. (a) Section 1811 of the Social Security Act is amended by striking out "and are entitled to retirement benefits under title II of this Act or under the railroad retirement system".

(b)(1) Section 226(a) of such Act is amended to read as follows:

"(a) Every individual who—

"(1) has attained age 65, and

"(2) is—

"(A)(i) entitled to monthly insurance benefits under section 202, or (ii) a qualified railroad retirement beneficiary, or

"(B) a resident of the United States (as defined in section 210(i)) and—

"(i) a citizen of the United States (as so defined), or

"(ii) an alien lawfully admitted for permanent residence who, after being so admitted, has resided in the United States (as so defined) continuously for a period of not less than 5 years,

shall be entitled to hospital insurance benefits under part A of title XVIII for each month for which he meets the conditions specified in paragraph (1), beginning with the first month after December 1973 for which he meets the conditions specified in paragraphs (1) and (2)."

(2) Section 226(i) of such Act is hereby repealed.

(3) Section 103 of the Social Security Amendments of 1965 is hereby repealed.

(c) Section 1818 of such Act is hereby repealed.

(d) The amendments and repeals made by the preceding provisions of this section shall take effect on January 1, 1974.

AUTOMATIC COVERAGE (WITHOUT PAYMENT OF PREMIUM) FOR BENEFITS, UNDER PART B OF MEDICARE, OF INDIVIDUALS ENTITLED TO BENEFITS UNDER PART A OF MEDICARE

SEC. 9. (a) Section 1831 of the Social Security Act is amended to read as follows:

"SEC. 1831. There is hereby established an insurance program to provide medical insurance benefits in accordance with the provisions of this part for all individuals who are entitled to the hospital insurance benefits provided by part A."

(b)(1) Section 1836 of such Act is amended to read as follows:

"SEC. 1836. Every individual who, for any period of time, is entitled to hospital insurance benefits under part A shall, for such period of time, be entitled to the benefits provided by the insurance program established by this part."

(2) The heading to such section 1836 is amended to read as follows: "INDIVIDUALS ENTITLED TO BENEFITS".

(d) Sections 1837, 1838, 1839, 1840, 1843, and 1844 of such Act are hereby repealed.

(e) Section 1902(a)(10) of such Act is amended by striking out "the making available of supplementary medical insurance benefits under part B of title XVIII to individuals eligible therefor (either pursuant to an agreement entered into under section 1843 or by reason of the payment of premiums under such title by the State agency on behalf of such individuals), or".

(f) Section 1902(a)(15) of such Act is amended by striking out "either or both of".

(g) Section 1903(a)(1) of such Act is amended by striking out "(including expenditures for premiums under part B of title XVIII, for individuals who are recipients of money payments under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, and, except in the case of individuals sixty-five years of age or older who are not enrolled under part B of title XVIII, other insurance premiums for medical or any other type of remedial care or the cost thereof)" and inserting in lieu thereof "(including insurance premiums for medical or any other type of remedial care or the cost thereof)".

(h) Section 1903(b) of such Act is amended by striking out paragraph (1) thereof and by striking out "(2)" at the beginning of paragraph (2) thereof.

(i)(1) Section 21(c) of the Railroad Retirement Act of 1937 is amended by striking out "part A" and inserting in lieu thereof "parts A and B".

(2 Section 21(d) of such Act of 1937 is amended by striking out "and sections 1840, 1843, and 1870" and inserting in lieu thereof "and section 1870".

(3) Section 22 of the Railroad Retirement Act of 1937 is amended by striking out "and their eligibility to enroll under part B of such title XVIII".

(j) The amendments and repeals made by the preceding provisions of this section shall take effect January 1, 1974.

AMENDMENT NO. 907

At the end thereof, add the following new section:

PRESCRIPTION DRUGS UNDER MEDICARE

SEC.—. (a)(1) Section 1861 of the Social Security Act is amended by adding after subsection (z) thereof (as added by section 234(f) of this Act) the following new subsection:

"(z-1)(1) The term 'covered drugs' means those drugs appearing on the list specified in paragraph (2) of this subsection.

"(2)(A) Subject to the provisions of subparagraph (C), the Secretary shall, with the advice of the Expert Committee on Drug Coverage established by section 1868, establish and publish a list of those drugs for which payment may be made subject to the conditions of section 1812(a)(4) under part A of this title. The Secretary shall distribute such list on a current basis to practitioners licensed by law to prescribe and administer drugs or to dispense drugs and shall make such other distribution as in his judgment will promote the purposes of this title. He shall from time to time (but at least once a year) review such list, and shall revise it or issue supplements thereto, as he may find necessary, so as to maintain insofar as practicable currency in the contents thereof and shall publish and distribute such revisions in accordance with the preceding sentence.

"(B) Each drug appearing on the list established under subparagraph (A) shall be designated by its established name and with respect to each such drug, the Secretary may include such other information as he finds necessary to promote the purposes of this subsection and section 1919.

"(C) A drug shall not appear on the list established under subparagraph (A) unless—

"(i) such drug is lawfully available for dispensing or administration to humans; and

"(ii) it is determined by the Secretary, with the advice of the Expert Committee on Drug Coverage, to be useful in the treatment of diabetes, high blood pressure, chronic cardiovascular, respiratory, or kidney diseases or conditions, arthritis, gout, rheumatism, tuberculosis, glaucoma, thyroid disease, or cancer.

"(D) For purposes of this subsection—

"(i) the term 'drug' means a drug as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (including those specified in section 351 of the Public Health Service Act); and

"(ii) the term 'established name' shall have the meaning assigned to such term by section 502(e)(2) of the Federal Food, Drug, and Cosmetic Act."

(2) Section 1861(t) of such Act is amended by inserting after "subsection (m)(5)" the following: "or subsection (z-1)".

(b) Section 1812(a) of such Act is amended by—

(1) striking out "and" at the end of paragraph (2);

(2) striking out the period at the end and inserting in lieu thereof: "; and"; and

(3) adding at the end the following new paragraph:

"(4) covered drugs furnished to such individual, but not when furnished to him while he is an inpatient in a hospital."

(c) Section 1813 of such Act is amended by adding at the end the following subsection:

"(c)(1) The amount payable for a covered drug furnished an individual shall be reduced by an amount equal to the copayment determined under paragraph (2) or, if less, the charges imposed with respect to such individual for such covered drug, except that, if the customary charges for such covered drug are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed.

"(2) The copayment specified in paragraph (1) shall be $2.00 the first time any particular prescription is filled and $1.00 each time a prescription is refilled."

(d) Title XVIII of the Social Security Act is amended by adding after section 1818 of such Act (as added by section 202 of this Act) the following new subsections:

"PAYMENT FOR COVERED DRUGS; CONDITIONS AND LIMITATIONS ON SUCH PAYMENT

"SEC. 1819. (a)(1) The amount paid to any provider of drugs with respect to covered drugs for which payment may be made under this part shall, subject to the provisions of this section and section 1813(c), be the reasonable drug charge with respect to such drugs.

"(2)(A) The 'reasonable drug charge' for a covered drug shall be the acquisition allowance plus a dispensing allowance.

"(B) The Secretary shall by regulations establish the method or methods for determining the acquisition allowance of a covered drug, giving consideration to the cost to providers of drugs of acquiring the drug by its established name. If the source from which any covered drug is available charges different prices therefor to different classes or types of providers, or if a class of providers may reasonably obtain such drug from only certain types of sources, the Secretary may, in establishing the acquisition allowance, take into account these differences.

"(C) The Secretary shall by regulations establish the methods for determining a dispensing allowance for a covered drug, giving consideration to such factors as cost of overhead, professional services, and a fair profit. He may provide different dispensing allowances for different classes of providers.

"(b) Payment for covered drugs furnished to an individual may be made only to a dispenser of drugs eligible therefor under subsection (c) and only if—

"(1) written request, signed by such individual, except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner, within such time, and by such person or persons as the Secretary may by regulation prescribe; and

"(2) a written prescription, signed by a physician, was filed with such provider of drugs; except that (pursuant to such regulations as the Secretary may prescribe) no payment may be made for a covered drug—

"(3) if it is prescribed in an unusual quantity; or

"(4) if it fails to meet such requirements as to quality and standards of manufacture as the Secretary may prescribe; or

"(5) it fails to meet such specifications as to dosage form as the Secretary may require.

"(c) For purposes of subsection (a), a provider of drugs shall be eligible for payment if—

"(1) he is licensed or authorized pursuant to State law to dispense drugs to humans;

"(2) he agrees to comply with such rules and regulations as the Secretary may issue with respect to—

"(A) submission of bills at such frequency and on such forms as may be prescribed in such rules and regulations;

"(B) availability for audit of his records relating to drugs and prescriptions;

"(C) the maintenance and retention of such records relating to the cost of drugs as may be specified in such rules and regulations;

"(3) he meets such other conditions relating to health and safety as the Secretary may find necessary;

"(4) he agrees not to charge any individual for a drug for which such individual is entitled to have payment made under this part an amount in excess of the customary charge at which such dispenser of drugs sells or offers such drug to the public at the time such drug is furnished to such individual."

(e) Title XVIII of the Social Security Act is further amended by adding after section 1867 of such Act the following new section:

"FORMULARY COMMITTEE

"SEC. 1868. (a)(1) There is hereby established, within the Department of Health, Education, and Welfare, a Formulary Committee, a majority of whose members shall be physicians and which shall consist of the Commissioner of Food and Drugs and of four individuals (not otherwise in the regular full-time employ of the Federal Government) who are of recognized professional standing and distinction in the fields of medicine, pharmacology, and pharmacy, to be appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Chairman of the Committee shall be elected, from the appointed members thereof, by majority vote of the members of the Committee for a term of one year. A member may succeed himself as Chairman.

"(2) Each appointed member of the Formulary Committee shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, one at the end of the first year, one at the end of the second year, one at the end of the third year, and one at the end of the fourth year. A member shall not be eligible to serve continuously for more than two terms.

"(b) Appointed members of the Formulary Committee, while attending meetings or conferences thereof or otherwise serving on business of the Committee, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c)(1) The Formulary Committee is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Formulary Committee such secretarial, clerical, and other assistance as the Formulary Committee may require to carry out its functions.

"(2) The Secretary shall furnish to the Formulary Committee such office space, materials, and equipment as may be necessary for the Formulary Committee to carry out its functions.

"(d)(1) The Formulary Committee shall compile, publish, and make available a Formulary of the United States (hereinafter in this title referred to as the 'Formulary').

"(2) The Formulary Committee shall periodically revise the Formulary and the listing of drugs so as to maintain currency in the contents thereof.

"(3) The Formulary shall contain an alphabetically arranged listing, by established name, of those drugs and biologicals that shall be deemed qualified drugs for purposes of the benefits provided under section 1812(a)(4).

"(4) Publish and disseminate at least once each calendar year among physicians, pharmacists, and other interested persons, in accordance with directives of the Secretary, (i) an alphabetical list naming each drug or biological by its established name and such other information as the Secretary deems necessary, (ii) an indexed representative listing of such trade or other names by which each such drug or biological is commonly known, together with the maximum allowable cost for various qualities, strengths, or dosage forms thereof, together with the names of the supplier of such drugs upon which the maximum allowable cost is based, (iii) a supplemental list or lists, arranged by diagnostic, prophylactic, therapeutic, or other classifications, of the drugs included in the Formulary, and (iv) information (including conditions of use required in the interest of rational drug therapy) which will promote the safe and effective use, under professional supervision, of the drugs listed in the Formulary,

"(5) The Formulary Committee shall exclude from the Formulary any drugs which the Formulary Committee determines are not necessary for proper patient care, taking into account other drugs that are available from the Formulary.

"(e)(1) In considering whether a particular drug shall be included in the Formulary, the Formulary Committee is authorized to obtain (upon request therefor) any record pertaining to the characteristics of such drug which is available to any other department agency, or instrumentality of the Federal Government, and, as a condition of such inclusion, to require suppliers of drugs to make available to the Committee information (including information to be obtained through testing) relating to such drug. If any such record or information (or any information contained in such record) is of a confidential nature, the Formulary Committee shall exercise utmost care in preserving the confidentiality of such record or information and shall limit its usage thereof to the proper exercise of such authority.

"(2) The Formulary Committee shall establish such procedures, as may be necessary to determine the propriety of the inclusion or exclusion in the Formulary, of any drug, including such data and testing as it may require of a proponent of the listing of a drug in the Formulary.

"(f)(1) The Formulary Committee, prior to making a final determination to remove from listing in the Formulary any drug which would otherwise be included therein, shall afford a reasonable opportunity for a hearing on the matter to any person engaged in manufacturing, preparing, propagating, compounding, or processing such product who shows reasonable grounds for such a hearing. Any person adversely affected by the final decision of the Formulary Committee may obtain judicial review in accordance with the procedures specified in section 505 (h) of the Federal Food, Drug, and Cosmetic Act.

"(2) Any person engaged in the manufacture, preparation, propagation, compounding, or processing of any drug not included in the Formulary which such person believes to possess the requisites to entitle such drug to be included in the Formulary, may petition for inclusion of such drug and, if such petition is denied by the Formulary Committee, shall, upon request therefor, showing reasonable grounds for a hearing, be afforded a hearing on the matter. The final decision of the Formulary Committee shall, if adverse to such person, be subject to judicial review in accordance with the procedures specified in section 505(h) of the Federal Food, Drug, and Cosmetic Act.

"(g) Drugs and biologicals shall be determined to be qualified drugs only if they can legally be obtained by the user only pursuant to a prescription of a physician; except that the Formulary Committee may include certain drugs and biologicals not requiring such a prescription if it determines such drugs or biologicals to be of a lifesaving nature.

"(h) In the interest of orderly, economical, and equitable administration of the benefits provided under section 1812(a)(4), the Formulary Committee may, by regulation, provide that a drug or biological otherwise regarded as being a qualified drug shall not be so regarded when prescribed in unusual quantities.

(i) The heading of part A of title XVIII of such Act is amended by striking out "INSURANCE" and inserting in lieu thereof "INSURANCE AND DRUG".

(j) Section 1811 of such Act (as amended by section 201(a)(2) of this Act) is further amended by inserting after "services" the following: "and the cost of covered drugs".

(k) Section 1814(c) of such Act is amended by—

(1) adding at the end of the heading the following: "or Federal Provider of Drugs";

(2) inserting "(1)" after "(c)"; and

(3) adding at the end of the following new paragraph:

"(2) No payment may be made under this part to any Federal provider of drugs (as provided for in section 1819), except a provider of drugs which the Secretary determines is dispensing drugs to the public generally as a community institution or agency; and no such payment may be made to any provider of drugs for any drug which such provider is obligated by a law of, or a contract with, the United States to render at public expense."

(l) Section 1815 of such Act is amended by—

(1) adding at the end of the heading the following: "and Providers of Drugs";

(2) adding after "provider of services with respect to the services furnished by it": ", and each provider of drugs with respect to drugs,";

(3) inserting after "provider of services" the second time it appears "and the provider of drugs, as the case may be,".

(m) Section 1861(r) of such Act (as amended by other provisions of this Act) is further amended by adding at the end thereof the following new sentence: "For purposes of section 1819, such term includes any such doctor only with respect to drugs he is legally authorized to prescribe by the State in which he prescribes such drugs."

(n) Section 1869(c) of such Act is amended by inserting after "provider of services" the following: "or any person dissatisfied with any determination by the Secretary that he is not a provider of drugs eligible for payment under this title,".

(o)(1) Section 1870(a) of such Act is amended by—

(A) inserting ", provider of drugs," after "provider of services"; and

(B) inserting "or drugs" after "items or services". (2) Section 1870(b) of such Act is amended by—

(A) inserting ", or provider of drugs," after "provider of services" each time it appears;

(B) inserting "or drugs" after "items or services"; and

(C) adding at the end of paragraph (2) the following: "any payment has been made under section 1819 to a provider of drugs for drugs furnished an individual,".

(3) Section 1870(d) of such Act is amended by inserting: ", or provider of drugs," after "provider of services".

(p) The heading of section 226 of such Act is amended by striking out "INSURANCE" and inserting in lieu thereof "INSURANCE AND DRUG".

(q) Section 226(b)(1) of such Act (as amended by section 201(b) of this Act) is further amended by—

(1) striking out "(as such terms are defined" and inserting in lieu thereof the following: "and for covered drugs (as such terms are defined"; and

(2) inserting ", and (C) no such payment may be made for covered drugs furnished before July 1, 1972; and" immediately before the semicolon at the end thereof.

(r) Section 21(a) of the Railroad Retirement Act of 1937 is amended by—

(A) striking out "and" which follows "extended care services,"; and

(B) striking out "post-hospital home health services" and inserting in lieu thereof "post hospital home health services, and covered drugs".

(s) Section 21(e) of the Railroad Retirement Act of 1937 is amended by inserting after "services" the first time it appears "(other than covered drugs)".

"MAXIMUM ALLOWANCE COST FOR QUALIFIED DRUGS

"SEC. 1869. (a) For purposes of this part, the term 'maximum allowable cost' means the following:

"(1) When used with respect to a prescription legend drug, such term means the lesser of—

"(A) the amount determined by the Formulary Committee, in accordance with subsection (b) of this section, plus a reasonable fee determined in accordance with subsection (c) of this section, or

"(B) the actual, usual, or customary charge at the price at which it is generally available to establishments dispensing drugs.

"(2) In considering (for purposes of the maximum allowable cost for any drug) the various sources from which and the varying prices at which such drug is generally available, there shall not be taken into account the price of any drug which is not included in the Formulary.

"(3) Whenever an amount or amounts at which a qualified drug is generally available for sale to the ultimate dispensers thereof vary significantly among the various regions of the United States or among such ultimate dispensers, the Formulary Committee may determine a separate amount or amounts with respect to such drug for various regions or for various classes of its ultimate dispensers.

"(c)(1) Any licensed pharmacy, which is a provider of services for purposes of this part, shall, in a form prescribed by the Secretary, file with an intermediary or other agency designated by the Secretary, a statement of a fee for the purpose of establishing the maximum allowable cost as defined in (a) above. Such fee shall include such costs, including the costs of professional services and a fair profit, which are reasonably related to the provision of pharmaceutical service rendered to persons entitled to receive benefits under this part.

"(2) Any licensed pharmacy shall, except for subsection (a)(1)(B) above, be reimbursed, in addition to any amounts provided for in subsection (b) above, the amount of the fee filed in (1) above, except that no fee shall exceed the largest fee filed by 90 per centum of such licensed pharmacies.

"(3) The Secretary shall, in addition to statements required pursuant to paragraph (2), require a form and at a time suitable to him financial or other data to justify recognition of any fee (A) which amount falls between the fiftieth and ninetieth percentile of all fees filed by participating pharmacies, or (B) in any case where a participating licensed pharmacy has, in the preceding four calendar quarters, been among the highest 20 per centum by prescription volume of all pharmacies participating in the program.

"(4) Where no fee statement or other information required by the Secretary has been filed by a licensed pharmacy otherwise qualified and participating in the program, fees to which such pharmacies may be entitled shall be limited to the amount of the lowest fee filed by any licensed pharmacy described in paragraph (1) above.".

(l) Section 1861(t) of the Social Security Act is amended—

(1) by inserting ", or as are approved by the Formulary Committee" after "for use in such hospital"; and

(2) by adding at the end thereof the following new sentence: "The term 'qualified drug' means a drug or biological which (1) can be self-administered, (2) is furnished pursuant to a physician's prescription or a physician's certification that it is a lifesaving drug which is medically required by such individual when not an inpatient in a hospital or extended care facility, (3) is included by strength and dosage forms among the drugs and biologicals approved by the Formulary Committee, (4) is dispensed (except as provided by section 1814(j)) by a pharmacist from a licensed pharmacy, and (5) which is generally available for sale to establishment dispensing drugs in an amount or amounts equal to or lesser than the amount or amounts established by the Formulary Committee pursuant to section 1820(b)."

(j) Section 1861(u) of the Social Security Act (as amended by section 227(d)(1) of this Act) is further amended by striking out "or home health agency" and inserting in lieu thereof "home health agency, or licensed pharmacy".

(k) Section 1861(v) of the Social Security Act (as amended by sections 227(c), 223 (b), 251(c), and 221(c)(4) of this Act) is further amended—

(1) by striking out "The reasonable cost" in the first sentence of paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (7), the reasonable cost"; and

(2) by adding at the end thereof the following new paragraph:

"(7)(A) With respect to any qualified drug, the maximum allowable cost shall be an

amount determined in accordance with section 1820 of this Act."

(l) Section 1861 of the Social Security Act is further amended by adding at the end thereof the following new subsection:

"Licensed Pharmacy

"(Z-1) The term 'licensed pharmacy' (with respect to any qualified drug) means a pharmacy, or other establishment providing community pharmaceutical services, which is licensed as such under the laws of the State in which such drug is provided or otherwise dispensed in accordance with this title."

(m) (1) The first sentence of section 1866 (a) (2) (A) of the Social Security Act is amended by striking out "and (ii)" and inserting in lieu thereof the following: "(ii) the amount of any copayment required pursuant to section 1813(a) (4), and (iii)".

(2) The second sentence of section 1866 (a) (2) (A) of such Act is amended by striking out "clause (ii)" and inserting in lieu thereof "clause (iii)".

(n) The amendments made by this section shall apply with respect to items and services furnished on and after the 1st day of January 1974.

AMENDMENT NO. 910

At the end thereof, add the following new section:

INSURANCE BENEFITS FOR DISABLED WIVES AND HUSBANDS

SEC. —. (a) (1) Section 202(b) (1) (B) of the Social Security Act is amended to read as follows:

"(B) (i) has attained age 62, or (ii) in the case of a wife (I) has in her care (individually or jointly with such individual) at the time of filing such application a child entitled to a child's insurance benefit on the basis of the wages and self-employment income of such individual, or (II) has not attained age 65 and is under a disability (as defined in section 223(d)),".

(2) (A) So much of section 202(b) (1) of such Act as succeeds clause (D) but appears before clause (E) is amended to read as follows: "shall (subject to subsection (s)) be entitled to a wife's insurance benefit for each month, beginning with—

"(E) if she satisfies subparagraph (B) by reason of clause (ii) (II) thereof—

"(i) the first month after her waiting period (as defined in paragraph (4)) which she becomes so entitled to such insurance benefits, or

"(ii) the first month during all of which she is under a disability and which she becomes so entitled to such insurance benefits, but only if she was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs after the month in which a previous entitlement to such benefits on such basis terminated, or

"(F) if she satisfies subparagraph (B) without regard to clause (ii) (II) thereof, the first month in which she becomes so entitled to such insurance benefits,

and ending with the month preceding the first month in which any of the following occurs:".

(B) Section 202(b) (1) of such Act is further amended by redesignating subparagraphs (E), (F), (G), (H), (I), (J), and (K) as subparagraphs (G), (H), (I), (J), (K), (L), and (M), respectively.

(C) Section 202(b) (1) of such Act is further amended—

(i) by striking out "or" at the end of the paragraph thereof redesignated by subparagraph (B) of this paragraph as subparagraph (L),

(ii) by striking out the period at the end of the paragraph thereof redesignated by subparagraph (B) of this paragraph as subparagraph (M) and inserting in lieu of such period ", or", and

(iii) by adding after the paragraph so redesignated as subparagraph (M) the following new subparagraph:

"(N) if she is entitled to such benefits by reason of the provisions of subparagraph (B) (ii) (II), the third month following the month in which her disability ceases (unless she attains age 62 on or before the last day of such third month).".

(3) Section 202(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(4) The waiting period referred to in paragraph (1) (E) (i), in the case of any wife, is the earliest period of five consecutive calendar months—

"(A) throughout which she has been under a disability; and

"(B) which begins not earlier than the first day of the seventeenth month before the month in which her application is filed.".

(b) (1) Section 202(c) (1) (B) of such Act is amended to read as follows:

"(B) (i) has attained age 62, or (ii) has not attained age 65 and is under a disability (as defined in section 223(d)),".

(2) So much of section 202(c) (1) of such Act as succeeds paragraph (D) thereof is amended to read as follows: "shall be entitled to a husband's insurance benefit for each month, beginning with—

"(E) if he satisfies subparagraph (B) by reason of clause (ii) thereof—

"(i) the first month after his waiting period (as defined in paragraph (4)), in which he becomes so entitled to such insurance benefits, or

"(ii) the first month during all of which he is under a disability and which he becomes so entitled to such insurance benefits, but only if he was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs after the month in which a previous entitlement to such benefits on such basis terminated, or

"(F) if he satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which he becomes so entitled to such insurance benefits,

and ending with the month preceding the month in which any of the following occurs: he dies, his wife dies, they are divorced, or he becomes entitled to an old-age or disability insurance benefit, which is equal to or exceeds one-half of the primary insurance amount of his wife, or his wife is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits, or if he is entitled to husband's insurance benefits by reason of the provisions of subparagraph (B) (ii), the third month following the month in which his disability ceases (unless he attains age 62 on or before the last day of such third month).".

(3) Section 202(c) of such Act as amended is further amended by adding at the end thereof the following new paragraph:

"(4) The waiting period referred to in paragraph (1) (E) (i), in the case of any husband, is the earlier period of five consecutive calendar months—

"(A) throughout which he has been under a disability, and

"(B) which begins not earlier than the first day of the seventeenth month before the month in which his application is filed.".

(c) (1) The third sentence of section 203(c) of such Act is amended by inserting immediately before the period at the end thereof the following: "; nor shall any deduction insurance benefit for any month in which the wife or husband has not attained age 65 and is entitled to such benefit on the basis of being under a disability".

(2) The third sentence of section 203(f) (1) of such Act is amended—

(A) by striking out "or" at the end of clause (D), and

(B) by inserting immediately before the period at the end thereof the following: ", or (F) for which such individual is entitled (on the basis of being under a disability) to wife's or husband's insurance benefits and has not attained age 65".

(3) The first sentence of section 216(i) of such Act is amended by striking out "sections 202(d)," and inserting in lieu thereof "sections 202(b), 202(c), 202(d),".

(4) (A) Section 222(a) of such Act is amended by inserting "husband's insurance benefits, wife's insurance benefits," immediately after "child's insurance benefits,".

(B) Section 222(b) (1) of such Act is amended by inserting "a wife who has not attained age 62, a husband who has not attained age 62," immediately after "entitled to child's insurance benefits,".

(C) (i) Section 222(d) (1) of such Act is amended—

(I) by striking out "or" at the end of paragraph (C) thereof;

(II) by inserting at the end of paragraph (D) the following: "or"; and

(III) by inserting immediately after paragraph (D) thereof the following new paragraph:

"(E) (i) entitled on the basis of being under a disability to wife's insurance benefits under section 202(b) prior to attaining age 62, or

"(ii) entitled on the basis of being under a disability to husband's insurance benefits under section 202(c) prior to attaining age 62,".

(ii) Section 222(d) (1) of such Act (as so amended) is further amended by inserting "the benefits under section 202(b) for wives who have not attained age 62 and are under a disability, the benefits under section 202(c) for husbands who have not attained age 62 and are under a disability," immediately after "under section 202(d) for children who have attained age 18 and are under a disability,".

(5) (A) Section 223(d) (2) (A) of such Act is amended by inserting ", and except a wife or husband for purposes of section 202 (b) or (c)" immediately after "or (f)".

(B) Section 223(d) (2) (B) of such Act is amended—

(i) by striking out "A widow" and inserting in lieu thereof "A wife, husband, widow"; and

(ii) by striking out "202(e)" and inserting in lieu thereof "202(b), (c), (e),".

(6) Section 225 of such Act is further amended—

(A) by inserting "or that a wife who has not attained age 62 and is entitled (on the basis of being under a disability) to benefits under section 202(b), or that a husband who has not attained age 62 and is entitled to benefits under section 202(c)," immediately after "believes that an individual entitled to benefits under section 223,", and

(B) by inserting "202(b), 202(c)" immediately after "may suspend the payment of benefits under such section".

(d) The amendments made by the preceding provisions of this section shall apply with respect to monthly benefits under title II of the Social Security Act for months after the month which follows the month in which this Act is enacted.

(e) Section 202(q) of the Social Security

Act is further amended by adding at the end thereof the following new paragraph:

"(10) Notwithtsanding the preceding provisions of this subsection, no reduction shall be made under this subsection in the wife's or husband's insurance benefit of any individual for any month prior to the month in which such individual attains age 65 if such individual is entitled to such benefit on the basis of being under a disability.".

(f) The amendment made by subsection (a) shall be effective with respect to monthly insurance benefits under section 202 (b) or (c) for months after the month which follows the month in which this Act is enacted.

AMENDMENT No. 911

At the end thereof, add the following new section:

COVERAGE OF PSYCHOLOGISTS' SERVICES

SEC. — (a) Section 1861(r) of the Social Security Act is amended (1) by striking out "or (4)" and inserting in lieu thereof "(4)" and (2) by inserting before the period at the end thereof the following: ", or (5) a psychologist licensed or certified as such by a State, but only for purposes of section 1861(s)(1) and section 1861(s)(2)(A) and only with respect to functions which he is legally authorized to perform as such by the State in which he performs them."

(b) The amendment made by subsection (a) shall apply only with respect to services performed on or after the date of enactment of this Act.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Charles D. Loos, of Indiana, to be U.S. marshal for the Southern District of Indiana for the term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, December 20, 1973, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ANNOUNCEMENT OF HEARINGS BY THE SPECIAL SUBCOMMITTEE ON INTEGRATED OIL OPERATIONS

Mr. HASKELL. Mr. President, on December 20, 1973, the Special Subcommittee on Integrated Oil Operations of the Senate Interior Committee will hold its final public hearing of this session on the competition in the petroleum industry. The hearing will be convened at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Witnesses expected to testify are: Prof. Morris Adelman, MIT; Prof. Albert Meyer, Harvard University; Prof. Thomas Stauffer, Harvard University; Prof. John Blair, University of South Florida; Mr. Mike Ameen, Aramco. The issues which will be discussed are: Are our domestic energy problems attributable in part to inadequate international competition, and what is the physical extent of economically recoverable U.S. petroleum resources?

Interested or affected parties desiring to file statements for the record should do so within 2 weeks. Statements should be sent to Miss Nancy Hartzog of the Interior Committee staff.

NOTICE OF HEARINGS ON PROPOSED CONSTITUTIONAL AMENDMENT

Mr. BAYH. Mr. President, The Senate Subcommittee on Constitutional Amendments has rescheduled its hearings on Senate Joint Resolution 5. These hearings will take place on Wednesday, December 19 in room 2228 of the Dirksen Senate Office Building at 10:30 a.m.

Senate Joint Resolution 5 proposes a constitutional amendment to lower the age of eligibility for Congress by 3 years. Thus a person could run for the Senate at age 27 instead of 30 and in the House the age of eligibility would be 22 instead of 25. The lowering of the eligibility age for Congress by 3 years would correspond with the 26th amendment which lowered the voting age by 3 years from 21 to 18.

Any persons wishing to testify or submit statements for the hearing record should contact J. William Heckman, chief counsel of the subcommittee, room 300, Russell Senate Office Building, Washington, D.C. 20510, as soon as possible.

THE ENERGY CRISIS—NOTICE OF HEARINGS

Mr. PELL. Mr. President, it is becoming all too apparent to the Nation that the "energy crisis" will have serious ramifications which we would never have deemed possible when talking about curtailment of gas consumption last summer. Each day brings out new facets of the problem which is having a marked effect on the national pattern of living.

As chairman of the Subcommittee on Education of the Committee on Labor and Public Welfare, I am receiving increasing information on the very disastrous effect that the cutback on available fuel is having on the education system, both on the elementary and secondary and college levels.

The immediate manifestations are shown both in extended college Christmas vacations and the closing of elementary and secondary schools. Unfortunately, the reports that we have received are sporadic; therefore, the Subcommittee on Education will hold hearings on the effect of the "energy crisis" on education, on Wednesday, December 19, 1973.

It is my hope that these hearings will not only discuss the depths of the problem, but also kindle the discussion about who is to bear the brunt of the crisis. Must we close our schools when businesses are allowed to stay open until midnight? Has anyone thought of a comparison of the escalating cost of heating fuel with the cost of running our Nation's schools? It is our hope that people knowledgeable in education, as well as people dealing with the energy crisis will testify. Those who wish to do so should contact Stephen J. Wexler, counsel, Subcommittee on Education, room 4230, U.S. Senate, Washington, D.C. 20510, 202-225-7666.

ANNOUNCEMENTS OF HEARINGS ON THE POTENTIAL EFFECTS OF THE ENERGY CRISIS ON THE HEALTH CARE SYSTEM

Mr. KENNEDY. Mr. President, the Health Subcommittee will hold a hearing on Monday, December 17, 1973, on the potential effects of the energy crisis on the health care system, in room 4232, Dirksen Building, at 10 a.m.

Persons interested in submitting testimony for the record should contact the subcommittee staff, room 4226, Dirksen Building.

ADDITIONAL STATEMENTS

STATUS REPORT ON PUBLIC FINANCING

Mr. CRANSTON. Mr. President, one of the major reforms coming out of the Watergate scandals will hopefully be the move to public financing of campaigns. It is a concept which has gained broad and growing support throughout the country, irrespective of party lines.

The fight recently waged in the Senate for the public financing amendment is an excellent example of the bipartisan concern with the effect private money has on the American body politic. A bipartisan group of nine Senators, led by the distinguished minority leader, Mr. HUGH SCOTT, and by one of the national leaders of the Democratic Party, the distinguished senior Senator from Massachusetts, Mr. KENNEDY, recently achieved, for the first time, a majority vote in favor of a system of public financing of Presidential and congressional campaigns.

The current status of public financing was ably discussed by Senators HUGH SCOTT and KENNEDY in an article appearing in yesterday's New York Times 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:

[From the New York Times, Dec. 12, 1973]

THE ONLY GOOD POLITICS IS CLEAN POLITICS

(By EDWARD M. KENNEDY and HUGH SCOTT)

WASHINGTON.—Most of the things that are wrong with politics in this country can be traced directly to the way we finance campaigns for public office. We would have a different country today if the political power of campaign contributors were measured by their votes and voices, instead of by their pocketbooks.

Amid so much that is negative today—the glaring daily headlines and public hearings,

the current and prospective Cox-Jaworski indictments, the pending court proceedings—reform of campaign financing stands out like a beacon as the most positive and forward-looking contribution Congress can make to end the crisis over Watergate and restore the shattered confidence of the people in the integrity of their Government.

At a single stroke, by enacting a program of public financing for Federal elections, we can shut off the underground rivers of private money that pollute politics at every level of the Federal Government. If, anything, the crisis over private money in public life is as deep and serious as the energy crisis or Vietnam, and no one in public office can ignore the problem. Just as the War Powers Act passed by Congress over the President's veto last month means no more Vietnams, so the campaign financing bill means no more Watergates.

The last-minute filibuster that killed campaign financing legislation in the Senate cannot obscure the positive results of the strong bipartisan effort for reform. We may have lost battle, but we have not lost the war.

First, by solid majority votes, the Senate demonstrated it is ready to adopt public financing for its own elections, ready to prohibit essentially all private financing in general elections for Federal office, and ready to move to a system of matching grants for small private contributions ($100 or less) in primary elections, at least for the office of President.

Second, progress is coming rapidly. Last July, a public financing amendment we offered, dealing with Senate and House general elections, not primaries, was defeated by a margin of 53 to 38 on the Senate floor. Four months later, the vote was just the opposite, 52–40, to accept essentially the same provision. The vote was even stronger, 54 to 38, to accept the new matching-grant provision dealing with Presidential primaries. Inevitably, the next time, there will be a vote on public financing for Congressional primaries, too, and perhaps, on an optional basis, for state and major local elections as well.

Third, next time is coming soon. The pledges by Senate and House committees to send reform legislation to the floor of both Congressional chambers in February, 1974 was no small victory, a guarantee that this Watergate reform will not be bottled up any longer. And if the guarantees prove less solid than we think, we'll be back again with another public financing rider on another bill next year.

Fourth, the Senate strategy was a genuine joint venture, a bipartisan effort combining the work of all the Senators—Alan Cranston, Philip Hart, Charles Mathias, Walter Mondale, Richard Schweiker, Robert Stafford, Adlai Stevenson, and ourselves—who had sponsored public financing bills earlier in the session. That so many originally divergent views could be consolidated into the common denominator of the amendment offered to the debt ceiling act was a significant factor in the full Senate's acceptance of the proposal.

Fifth, the debate demonstrated the coming of age of Common Cause, John Gardner's people lobby, as a powerful new and positive influence for reform and decent government. Thanks to Common Cause, the A.F.L.-C.I.O. and U.A.W., and Philip Stern's center for public financing, the spotlight of public opinion is now squarely on Congress and public financing.

Our main regret is that public financing is still an issue on which the people are ahead of the politicians. A poll shortly after Labor Day showed that 65 per cent of the public, the same margin for both Republicans and Democrats, favored full public funding of all Federal elections, Presidential, Senate and House, and a complete prohibition on private contributions. And that was before the Justice Department took the Agnew case to the grand jury, and before the dramatic and repugnant disclosures of the campaign financing phase of the Watergate hearings.

The best bargain the taxpayer can get is an honest, clean election.

THE PROPOSED SOLUTION TO THE NORTHEAST RAILROAD CRISIS

Mr. HANSEN. Mr. President, on Tuesday, December 11, the Senate passed S. 2767, the proposed solution to the Northeast railroad crisis. Because of the extreme cost to the taxpayers, particularly in providing displacement allowances to railroad employees who may lose their jobs due to the consolidation of the seven bankrupt railroads into one, allowances which are not available to other private industry employees who are also facing possible loss of employment because of the fuel and energy crisis, I felt obligated to vote against the bill.

I want to commend, however, the management of the Union Pacific, and particularly Mr. Frank E. Barnett, chairman of the board, for its part in attempting to work out a solution to this very complex problem.

Mr. Barnett was primarily responsible for drafting the legislation which was considered by both the House and the Senate and, with the president of the Southern Railroad, negotiated on behalf of the industry the labor protection provisions included in the bill. While, as I mentioned, I found the provisions too generous as compared to the protection now available for other possibly displaced employees, I realize the extreme difficulty in negotiating labor agreements and certain very favorable changes in railroad labor practices were accomplished. These changes indicate progress in ridding the industry of work rules which have hampered productivity in this vital industry. For example, management of the new railroad company that will emerge will for the first time have the right to consolidate or transfer jobs and employees from one section of the Northeast to any other region where needed, and railroad labor has agreed to binding arbitration in establishing the procedures calling for such transfers.

I realize the importance to Wyoming in arriving at a solution to the Northeast railroad crisis because a large percentage of the minerals and agricultural products of Wyoming must be moved into the Northeast States and much of the manufactured products of the Northeast can only move out of and into Wyoming by rail. I hope the legislation now passed will be successful.

INDIVIDUAL VIEWS ON WATER RESOURCES DEVELOPMENT ACT

Mr. BUCKLEY. Mr. President, I am advised that on Tuesday, when we introduced the Water Resources Development Act of 1973, the gentleman from Alaska (Mr. GRAVEL) took occasion to comment adversely on the individual views I had submitted for inclusion in the committee report. Rather than address myself to his comments, I will let my statement speak for itself. Mr. President, I ask unanimous consent that my individual views be printed in the RECORD.

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

INDIVIDUAL VIEWS OF JAMES L. BUCKLEY ON WATER RESOURCES DEVELOPMENT ACT

During the markup session of the Subcommittee on Water Resources, and again at the meeting of the full Committee, I moved to strike from the Water Resources Development Act more than forty projects (a number of which I will detail later in these views) whose aggregate cost came to more than $109 million, or approximately ten percent of the identifiable cost of the bill.

I moved to strike these items not because of their cost, but because in each instance they appeared to be special interest projects offering localized benefits without reference to any national policy established by the Congress. I moved to strike them because they appeared to exemplify that quaint and hoary custom of legislating special favors for special constituencies on an *ad hoc* basis inconsistent with settled practice. In short, in an era when we are all conscious of a widespread public distrust of government, I moved to strike those projects that might be described by unfriendly critics as "pork".

In raising questions about the inclusion of these items, it was not my purpose to moralize or to impugn the motives of the very fine sponsors of the various projects. Rather, it was my purpose to precipitate a re-examination of some ancient practices that, while accepted by custom, are nonetheless political in essence and discriminatory in effect. Any time a given community is provided more favorable treatment than another because of the political clout of interested members of the Senate or House, any time we waive the normal rules and procedures for no better reason than that one of our colleagues has stated that the project is important to him, anytime we act from other than a *national* perspective in the implementation of *national* policy, we necessarily favor some at the expense of others.

There are those, I know, who will feel that I am being naive in attempting to stimulate such a re-examination, and that the interests of institutional comity far outweigh the theoretical benefits to be derived from adhering to an even-handed policy when it comes to dispensing federal funds for projects of great local importance. This was made very clear when I suggested, in the meeting of the full committee, that the names of the Congressional sponsors of each of the projects ought, in the future, to be omitted from the work sheets provided members of the Committee for help in their deliberations. I suggested that knowledge of the identity of the sponsors might somehow affect our judgment of the merits of the projects in question. The Chairman of the Subcommittee, Mr. Gravel, whose permission I have to reproduce his remarks, commented as follows:

Senator GRAVEL. With respect to putting names on the column here, there is nothing wrong. I think we are all politicians. We are going to find out who the names are. We are going to get a telephone call. You are going to suffer retribution if you vote against a person's project.

(I)f we are going to be responsible adults, we must realize that when we commit a

political act we can suffer political consequences.

When — (a powerful senior Senator) has a project in here that he wants, that project carries an extra weight. It is a lot more than—(a very junior Senator's) project. If any one is immature enough to think in this Congress or in the media of this country that this is not the case, then they shouldn't be, they are not mature enough to serve in this Congress.

So from my point of view, there is no reason why we shouldn't see those names so we know who is involved.

Senator BUCKLEY. So we know how to distribute the pork.

Senator GRAVEL. Not necessarily, to understand what we are doing politically because it does offer political consequences. I think that is part of the maturity of being a political person.

The Chairman of the subcommittee is saying, in effect, that political maturity involves scratching one another's backs in order to trade off favors at the public expense. I submit that this is a view of political maturity that we had better outgrow if we in the Congress ever want to regain public confidence.

I believe the time is ripe to reconsider past practices, however sanctioned by custom, and to think through their implications. The public isn't buying "politics as usual" these days, and nor should we. We are going through a traumatic period in this country, a period in which public respect for government is at a very low ebb. As a result of the introspection and criticism of the past months, all kinds of political habits are being re-examined, and significant reforms are being instituted. We are requiring far-reaching changes in the whole structure of campaign financing, we are insisting on the adoption of "Caesar's wife" standards by the Executive and by state and local governments. The Congress cannot exempt itself from this same scrutiny. If we hope to regain some measure of public confidence, we must be willing to scrutinize our own folkways to see if they in fact meet the standards that the public expects of us and that we expect of others.

Perhaps I am tilting at windmills, but I like to think not. I do not believe that my objective is impossible of attainment. Surely the support that I received in striking a number of items indicates a healthy willingness to re-examine specific projects in the light of established policies governing the federal funding of local projects.

I recognize that there in fact exists on overwhelming inhibition created by the fact that many of the sponsors are men of great personal prestige and influence. Yet my respect for these men is such that I, for one, am confident that they would not resort to petty acts of retaliation for positions honestly and consistently taken. I believe that if we will just consciously close the chapter on the era of special interest legislation, we can in the future move to a consideration of individual projects based solely on whether or not they qualify for funding under national policies adopted by the Congress.

The balance of my remarks discusses those particular sections of the Water Resources bill which I asked the Committee to scrutinize in the light of the policy I have described above.

Each of these provisions falls into the category of "special interest" because the benefit which the authorized project bestows on the affected community is above and beyond that which is available to all other equally deserving localities under existing federal policy, as determined by the Congress.

I did not question the need for or merits of any project. There is no doubt that each provision which might be classed "special interest" would greatly benefit the individual community. In this sense, they are all "good" projects.

When a "clean Senate bill" was presented to the Subcommittee, I identified 44 sections which could be classified as "special interest." The known cost of these projects totaled over $109 million; however, ten provisions had indeterminate costs.

During the subcommittee markup I moved to strike these sections of the bill en bloc on the grounds that none of the provisions fitted into a consistently applied federal policy. This approach was rejected by the Subcommittee, and we proceeded to consider each of over 100 sections individually. At appropriate points I moved to strike any section that I believed was inconsistent with existing policy. A number of these motions were not seconded. A large majority were defeated. The Subcommittee did agree, however, to delete nine "special interest" sections, two of them for projects located in New York State. These two provisions were struck from the bill not because they were found to be inconsistent with federal policy, although that was my reason for offering the motion, but because a Senator in whose state the projects were located had asked that they be stricken. I suggested that this is the wrong reason. As I have pointed out, the identity of the sponsor of any provision ought not to be the relevant criterion for including it in or excluding it from water resources legislation.

My list of 44 sections included ten projects which were justified as "demonstration projects" for streambank erosion control. As a result of the questions I raised, these were consolidated into a single demonstration program, at a savings of $61 million compared to the total cost of the ten sections considered individually. I believe this was a beneficial change. I have no quarrel with the need for information to aid communities in coping with severe streamback erosion, but such projects ought to be authorized under the aegis of consistent criteria and the information disseminated to other communities. I believe section 12 of the reported bill succeeds in this respect.

During the full committee markup, I moved several amendments to delete the "special interest" provisions which remained. I organized these sections by groups, each representing a category of deviation from accepted practice.

One amendment sought to delete three sections directing the Army Corps to construct roads which are not considered Corps responsibility under present law. Although my amendment failed, similar authority for special roads in other states was deleted upon my motion in Subcommittee. Hence, the Committee did not act consistently on this policy.

A second amendment sought to strike eight sections which were justified by the claim of inadequate planning or findings on the part of the Army Corps of Engineers. In many instances, local claims for mitigation are contested by the Corps. I questioned these sections not because I am not sympathetic to the problems faced by local communities, but because I believe Congress is providing relief on an *ad hoc* basis without examining the institutional deficiencies which give rise to what is evidently a widespread problem. Although my amendment failed, I have been assured by the Chairman that the Committee will hold hearings in order to devise a national approach which would seek to provide, on an equitable basis, an appropriate means of adjudicating disputes between local interests and the Corps.

I also offered an amendment designed to conform the local payback deferral provision in section 29 to the general policy established by section 70. The Committee declined to do this, thereby contravening its own newly-adopted policy.

Apart from those special projects which I have described above, I also offered an amendment to section 65 regarding the interest rate to be used in computing costs and benefits of water resources projects. My amendment provided that no existing project, or one fully approved in this legislation could be judged non-feasible *solely* on account of the new interest rate established by the Water Resource Council on September 10th. This would have provided an alternative to continuing to use unrealistic rates of interest, some as low as 2½ percent, on projects which have been authorized but on which construction has not begun.

I propose to re-offer one or more of the above amendments when the bill comes to the Senate floor.

CONSTITUTIONAL RIGHTS INVESTIGATION OF INTERNAL REVENUE SERVICE DOMESTIC INTELLIGENCE UNIT

Mr. ERVIN. Mr. President, early last spring I became aware of the existence of a special domestic intelligence unit operated under the aegis of the Internal Revenue Service. The attached IRS memorandum dated December 18, 1972, to all Directors from the North Atlantic Regional Commissioner was, I believe, the first indication any of us had that the "views and philosophies" of taxpayers were under investigation by the Internal Revenue Service.

On May 21, 1973, after checking the authenticity of the memorandum, I initiated an inquiry into the activities of this IRS domestic intelligence unit in a letter to the Department of the Treasury:

> I have been informed that within the Internal Revenue Service there is a "Special Service Staff" which collects, analyzes and disseminates information on non-violent individuals and groups promoting what the Internal Revenue Service considers to be extremists' views or philosophies. I would appreciate your providing me with an account of the duties of this Special Service Staff, the number (by employment status) of its employees, and any statutory or regulatory authority for such activities. Please include any Special Service Staff manuals which may exist and, if possible, all memoranda regarding the establishment of this group, which I understand occurred in 1969. In addition, please furnish me with the number of individuals and the number of groups on which the Special Service Staff keeps files, together with a summary of the kinds of information contained in those files. I would also like to see the list of agencies and organizations to whom information from the Special Service Staff files is available. If there are any measures or guidelines regarding file security or confidentiality of information, please include these also.

Through the able staff of the Constitutional Rights Subcommittee, and with the cooperation of Commissioner Alexander and his special assistant, Mr. Burke Willsey, I am currently engaged in an investigation of the non-tax-related, domestic intelligence activities of the IRS Special Service Staff.

I understand that the excellent staff of the Joint Committee on Internal Rev-

enue Taxation has been intensively investigating the tax-related activities of the Special Service Staff and will soon publish a report of their findings. I look forward to perusing the joint committee's report with great interest. Since the Special Service Staff's activities involve the impact on the tax responsibilities of IRS as well as the impact on the constitutional rights of all Americans, I am hopeful that this two-pronged investigation—each committee operating in the field of its special expertise—will together resolve all the questions that have been raised.

In the meantime, let me add, the Commissioner of Internal Revenue announced on August 9, 1973, that the Special Service Staff will be disbanded. For the information of my colleagues I have attached to these remarks the IRS news release, announcing this proposed disbandment. I understand that as of today the Special Service Staff has not yet finally been dissolved. When the process is complete and a full report is made to the Commissioner on the staff's activities, I understand that the Internal Revenue Service intends to release to the public a full report on the Special Service Staff.

For my part, as chairman of the Constitutional Rights Subcommittee, I will continue to trace the establishment and activities of the Special Service Staff as a domestic intelligence unit which collected non-tax-related information on the political views and philosophies of those who have disagreed with the present administration.

Mr. President, I ask unanimous consent that the memorandum and news release to which I have previously referred be printed in the RECORD.

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

To: All Directors.
From: Regional Commissioner, North-Atlantic Region.
Subject: Special Services Staff (ACTS:C:SS).

Some of you are well aware of the Special Services Staff (ACTS:C:SS) in the National Office, but I thought I would take this opportunity to give you some background on its formation and its mission, how it operates and how we as line managers can assist in its operation, as well as utilize its files to our benefit.

A special compliance group was established in 1969 to receive and analyze all available information on organizations and individuals promoting extremists' views or philosophies. The identification of those included in the program was without regard to the philosophy or political posture involved; rather it was directed to the notoriety of the individual or organization, the probability that publicity might result from their activities and the likelihood that this notoriety would lead to inquiries regarding their tax status.

Liaison was established with Federal Investigative and law enforcement agencies to provide additional information on matters involving taxable income of individuals, activities of organizations having, or seeking, tax exempt status and the identity of individuals or exempt organizations providing financial support to activist groups.

On February 11, 1972, the group was formalized as the Special Services Staff. Currently, this Staff has 11,000 files (8,000 individual and 3,000 organizations). The composition of these files includes 12,000 classified documents. In addition, they have available a listing of 16,000 entities who fall into the category of posing a threat and probability of tax violation.

The Staff acts as a central intelligence-gathering facility for data from within IRS and from other investigative or law enforcement agencies. Accumulated data suggests there are two major categories of organizations and individuals identified as likely to be violating Federal Tax Statutes: (1) Violent Groups—those who advocate and practice arson, fire-bombing and destruction of property; use coercive threats for funds through U.S. Postal Service; make threats against public officials; plan and organize prison riots; engage in activities involving illegal accumulation of firearms and ammunition; have been identified as planning and carrying out skyjacking; and, those who print and distribute publications advocating revolution against the Government of this country. In category (2) where is ample evidence of activities involving so-called Non-Violent Groups, who by alleged peaceful demonstrations oftentimes deliberately initiate violence and destruction. Included are those who publicly destroy and burn draft cards, destroy Selective Service Office records, participate in and organize May Day demonstrations, organize and attend rock festivals which attract youth and narcotics, aid in funding sale of firearms to the Irish Republican Army, Arab Terrorists, etc., travel to Cuba, Algeria and North Vietnam in defiance of existing statutes (relating to seditious acts), inciting commotion and resistance to authority by encouraging defectors in the Armed Forces to enter into alliances to subvert this nation, and there is evidence from classified documents that transfers of large amounts of money to and from the USA are being used to establish and organize groups with the view of overthrow of this Government.

Currently, when information is received, it is reviewed for indication of non-compliance. When indications are present, file searches, if possible, are made to determine if returns are filed and taxes paid.

If the review so warrants, pertinent data is referred to the District, Audit, Intelligence or Collection and Taxpayer Service Divisions. These referrals may relate to specific individuals, organizations or groups of individuals. In addition, information and trends on the various movements are sent to the Districts affected. The Districts determine to what extent the information is used.

The Special Service files contain a great deal of material which has not been evaluated and, consequently, has not been referred to the field. This material is available to Revenue Agents, Special Agents and Revenue Officers working on organizations or individuals involved. Should an Agent or Revenue Officer be assigned a case falling into one of the categories, he should feel free to direct an inquiry to the Special Services Staff to see if there is any information on file or that can be obtained that would aid in their investigation. Inquiries can either be by mail or telephone to the following: Mr. Paul H. Wright, P.O. Box 14197, Benjamin Franklin Station, Washington, D.C. 20044, Area Code: 202-964-4326.

Many of the files contain detailed financial information. In such instances it may be preferable to have field personnel come in and extract data. But, due to the classified nature of the files, it would be necessary to obtain secret security clearance for each employee making such an inspection. Although some of the files are top secret, Special Services Staff members with this clearance can extract data of this nature if needed.

While the Special Services Staff is essentially an information-gathering and dissemination operation, it should not be considered a one-way street. Field personnel should be alert and refer information concerning these organizations and individuals indicating they willfully ignore or violate Tax Statutes. This added input will establish an effective two-way communication channel, greatly improving required Internal Revenue action. This is especially true where such information should cross district or regional lines, permitting coordination with other offices. Field personnel should be alert to criminal violations other than those involving *Tax Statutes*. This includes any indication of acts of violence, falsification of official documents and threats against Government officials or offices. Such information should also be channeled to the Staff so that they can coordinate with the appropriate agency.

The magnitude and potential of this facility is unlimited; a recent audit supports the conclusion that this function offers high potential as a deterrent to widespread tax violation sponsored by activist groups.

If you are aware of any individuals or organizations in your District that would fall into these categories, please furnish this information to the ARC (ACTS) for referral to the National Office.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., August 9, 1973.

WASHINGTON, D.C.—The Special Services Staff within the Internal Revenue Service will be disbanded, Commissioner of the Internal Revenue Donald C. Alexander announced today.

"The tasks now being performed by the Staff," Mr. Alexander said, "can be handled efficiently by other components of the Service as a part of their regular enforcement activities."

The decision was reached after a two-month study ordered by Mr. Alexander immediately after he entered office. The study showed that the function performed by the Staff could be carried out by other units of the IRS having responsibilities for enforcement and administration of the tax laws.

The Staff was originally formed in 1969 as a result of inquiries made of IRS by the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations. At that time, in the wake of civil disruptions and demonstrations by "extremist" organizations, the Subcommittee raised questions concerning the financial resources available to these organizations. There was evidence that some of the organizations which enjoyed tax exempt status were not complying with the tax laws. The assignment of the Staff was to gather information on the sources of funding of these organizations and to check the income tax status of the organizations and their principals.

The data-gathering work of the group is presently confined to tax resistance organizations and those individuals who publicly advocate noncompliance with the tax laws. "The IRS will continue to pay close attention to tax rebels," Mr. Alexander said, "but political or social views, 'extremist' or otherwise, are irrelevant to taxation; the work of the Staff as a separate unit will be phased out."

SOCIAL SECURITY TAXES

Mr. BEALL. Mr. President, a week and a half ago, the U.S. Senate, by an overwhelming vote, granted the fifth major

increase in social security benefits since 1969—15 percent increase in 1970, 10 percent increase in 1971, 20 percent increase in 1972 and a 5.9 percent increase in June of 1974 which will be nullified by enactment of the 11-percent increase in H.R. 3153.

Since 1969, the Congress has set in motion a process which has now built up its own momentum and it could have a significant impact upon the well-being of all of our citizens in years to come. As one who serves as the ranking minority member of the Labor and Public Welfare Committee's Subcommittee on Aging, I share the desire of my colleagues to increase benefits to those who truly need them. I have spoken out on this issue on a number of occasions, most recently in a statement during the Senate consideration of H.R. 3153—CONGRESSIONAL RECORD, November 30, 1973.

The second aspect of this problem is, in itself, subdivided into two parts. The Social Security System is so large and so complex that an actuarial table exists to justify almost any point of view. It has become very fashionable in recent years to advocate social security increases without establishing a corresponding mechanism for replacing these funds. The Social Security Trust Fund is far too large and serves far too many people for us to gamble with its viability. We must never put ourselves in the position of promising benefits to our citizens which we may be unable to deliver at some future date.

The second aspect of this problem, and the one which has remained largely invisible in recent years, is the rapidly increasing tax burden which falls most heavily upon the already hard pressed middle class. During the Senate's consideration of H.R. 3153, I received a number of letters expressing opposition to the benefit increase on the grounds that it would entail a significant tax increase. I have selected several of those letters which most articulately expressed various aspects of this problem and I ask unanimous consent that these letters be printed, in whole or in part, in the RECORD at the conclusion of my remarks. In addition, Mr. President, the December issue of Fortune magazine carries an editorial entitled "Social Security: The Real Cost of Those Rising Benefits" and I ask unanimous consent that this article also be printed in the RECORD at the conclusion of my remarks.

Mr. President, when I first came to the Congress in 1969, there was a general realization that two basic reforms had to be undertaken in the social security system. First of all, there had to be a significant improvement in the benefit levels offered to our Nation's senior citizens. During the course of the past 5 years, social security benefits have been increased approximately 68.5 percent. In addition, President Nixon took the lead in urging the Congress to adopt an automatic cost of living increase procedure which would serve to make social security benefits "inflation proof." Under the President's leadership, this automatic increase procedure was enacted into law and it will become fully effective in 1974. I believe that the time has come for the Congress to allow the automatic cost of living escalator to operate so that we can judge its adequacy. Clearly caution is called for in future congressional deliberations on this matter because I fear the possibility of a taxpayers' revolt against improved benefits for our Nation's senior citizens. We must not trigger a backlash among the middle class that would manifest itself in hostility and resentment against our 20 million senior citizens.

Mr. President, the exhibits I am inserting in the RECORD are the tip of an iceberg, and I believe it is incumbent upon us, as responsible legislators, to move with prudence and caution lest we trigger antagonism between those who receive social security benefits and those who pay taxes for such benefits.

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

GEORGE, MILES & BUHR,
Salisbury, Md., November 13, 1973.

Hon. J. GLENN BEALL, JR.,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR BEALL: As laudable as the intent may be, I feel that it is time for the Congress to impose a "hold" on further social security increases.

The latest proposed increase will impose additional financial penalties on worker and employer alike. As an employer, the matching sum paid by us on each employee has now grown so large that it inhibits our ability to provide continuing salary increases and new fringe benefits.

I urge you to vote against the proposed increases. There are more working voters than social security recipient voters.

Sincerely,

WM. B. MILES, JR.

BALTIMORE, MD., *November 21, 1973.*

Hon. J. GLENN BEALL, JR.,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR: I noted with interest newspaper accounts to the effect that Social Security benefits are to be increased, and that this is to be coupled with a maximum increase of $140.40 in the Social Security tax of persons earning $13,200 or more, with lesser proportionate increases for those earning between $10,800 and $13,200.

I would be the last to deny the need for decent levels of benefits for retired beneficiaries of Social Security, but I am troubled by the ease with which Congress reduces the take home pay of middle income salaried professionals to pay for this increase. My concern has been enhanced by recent reports in the *Baltimore Evening Sun* to the effect that Congress is considering eliminating certain itemized deductions from the federal income tax—specifically the state gasoline tax deduction—and that there is also discussion of abolishing the $100 dividend exclusion, thereby significantly raising the federal income tax of middle income salaried persons, especially if they are small stockholders. Meanwhile, I have not read reports that any consideration is being given to raising the individual exemption for taxpayers, or reducing the basic tax rate, much less reforming the taxation of such items as capital gains so that persons in high income brackets do not escape paying their fair share.

It would really be desirable for you and your colleagues to come to have a clear grasp of the household budgetary situation of your middle income constituents. For example, I am an assistant professor at the University of Maryland Baltimore County. Last year, I received a salary which I would consider to be about average for a faculty member of my rank. My salary increment for 1973–74 was 3.8%, during a period when prices were rising in excess of 7%. Thus, I am now over the bracket in which it will become necessary to pay the new maximum Social Security tax. Faculty members at UMBC have been told by our Chancellor that the University's asking budget for 1974–75 provides for faculty salary increments of about 7%, although I take it that this is likely to be reduced by the Legislature. Thus, the great difficulty is that persons such as myself have the impossible task of attempting to stay abreast of the cost of living during a period of soaring food prices, uncontrolled rents, availability of mortgage money at very high rates if at all, inflated costs of new homes, and increases in the price of gasoline due to the energy crisis which are projected to go as high as 80 cents a gallon by Spring. On top of this, Congress now enacts a reduction of $140 in my take home pay. In other words, it would now be necessary for me to get a salary increase next year of 8% instead of 7% merely to keep abreast of the increases in the cost of living, because 1% of my salary will be lost under the Social Security tax increase. My dear Senator, I can assure you that I have not the slightest expectation of an 8% increase from the State of Maryland next year. Moreover, if I should have to pay up to 1% more of my salary in federal income tax because of changes in the itemized deductions, or if there should be further increases in the cost of living beyond what is now being projected, I simply don't see how my budget can stand it unless I do something to augment my basic take home pay. The simple fact of the matter is that salaried professionals such as myself have, over the last few years, experienced a net loss in real wages due to both inflation and changes in the tax structure. Thus, we have not shared in whatever increases in economic productivity may have occurred.

May I have your comments at your early convenience, including some indication of any specific things that the federal government is doing—or that are proposed—in order to ease the burden on middle income salaried professionals such as myself.

Sincerely yours,

ALAN L. SELTZER.

ADELPHI, MD., *November 27, 1973.*

Hon. GLENN BEALL,
U.S. Senate,
Washington, D.C.

DEAR GLENN: Once again the Senate will consider the need for an increase in Social Security benefits and once again I am asking that you vote for the taxpayer and the thousands of Maryland youths whose old age security is jeopardized by the unjustified benefit increases that have become a political hallmark of our old age system.

As the enclosed chart shows, Social Security taxes have become a significant burden for both employer and employee. Indeed, the Social Security Administration has indicated that half of American taxpayers pay more in OASDI taxes than income taxes and, at the present rate of progression, every taxpayer will soon be doing likewise.

Not readily as apparent, the chart also shows that retirees are likely to draw more in one year's benefits than they paid in taxes during their entire working careers . . . a return that far exceeds any other avenue of investment open to them. And although the cost of living has increased significantly since the last benefit increase, it should be pointed

out that since 1969 Congress has raised benefits by a cumulative 70% while the consumer price index has risen 31%. Where then is the case for another benefit increase?

On the other hand, someone should be concerned about the many young Maryland families with both spouses working and paying OASDI taxes and the prospects for their retirement security. In the face of a rising chorus of taxpayer complaints against a system whereby 60 million pay taxes to support 25 million, what will be the situation when these young people retire and there are more retirees than workers?

In the face of this evidence, who will you vote for?

Sincerely,

MICHAEL J. ROMIG.

SOCIAL SECURITY TAX SCHEDULES, 1937 THROUGH 1974

Years	Tax rate (percent)	Wage base	Maximum tax[1]
1937–49	2	$3,000	$60.00
1950	3	3,000	90.00
1951–53	3	3,600	108.00
1954	4	3,600	144.00
1955–56	4	4,200	168.00
1957–58	4.5	4,200	189.00
1959	5	4,800	240.00
1960–61	6	4,800	288.00
1962	6.25	4,800	300.00
1963–65	7.25	4,800	348.00
1966	8.4	6,600	554.40
1967	8.8	6,600	580.80
1968	8.8	7,800	686.40
1969–70	9.6	7,800	748.80
1971	10.4	7,800	811.20
1972	10.4	9,000	936.00
1973	11.7	10,800	1,263.60
1974, under pending legislation	11.7	13,200	1,554.40

[1] Maximum combined tax for both employer and employee.

BALTIMORE, MD., *December 3, 1973.*

Senator J. GLENN BEALL, Jr.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BEALL: You will shortly be considering a further increase in social security payments as well as additional FICA deductions.

As I pointed out to you in previous letters, I cannot see the logic of taxing currently employed persons to pay for benefits for those who are now retired. While this idea would not win you many friends among the retired persons, I am sure it will win you many, many more friends among those of us who are currently working. After all, there must come a time when we will have to stop giving away something for nothing. Please vote against these increases.

HOWARD F. BRENNER.

LAUREL, MD., *December 4, 1973.*

Senator J. GLENN BEALL, Jr.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BEALL: I wish that you and all of your fellow Senators would start thinking about what you are doing to the average middle income person by increasing Social Security. First, I personally look forward to not having to pay the Social Security tax at the end of the year because it adds extra money into my budget for Christmas shopping. Second, as an employee of a large corporation the most my salary is allowed to increase is 5.5 percent yet you raise Social Security benefits by 11 percent and increase my tax by 22 percent. Third, you are reducing corporate profits at a time when unemployment is on the rise since they also will have to pay more into Social Security. Fourth, as a person in his early thirties, I can never hope to recover even a fraction of the high Social Security tax that I am forced to pay even if I live for many years after I reach the age of 65.

In conclusion I wish that you would remember that Social Security is supposed to be an addition to ones retirement fund, *not* the retirement fund itself. I thought you might be interested in a joke heard often at work—Social Security must be a bad deal because the people who administer it are not covered by it.

Thank you for your consideration.

Sincerely,

JAMES H. STIEGLER.

SOCIAL SECURITY: THE REAL COST OF THOSE RISING BENEFITS

Once again social-security benefits and taxes are being raised by Congress. Once again, despite some quibbling about the amount of the raise, there has been no real resistance to the process. And, once again, any reasonable case for a raise is hard to discern.

This performance demonstrates among other things, the extent to which all that brave talk about "reordering priorities" has subsided. The Administration's principal priority last month appeared to be survival. And a fair number of Congressmen who had been dwelling heavily on the need for more sophisticated decision-making procedures, so that they could see the whole picture when voting on particular bills, seem silent. (Both the House and Senate have budget-control legislation before them, but their versions differ and no such law is apt to be in effect before 1975.) It is obviously more agreeable to vote benefits for the old folks than it is to focus on painful decisions about what the country can afford in a period of budgetary constraints.

There is no doubt that the higher benefits are popular—even though they entail some stiff new taxes. But there is also no doubt that this popularity rests to some extent on a vast misconception. There is a widespread belief that benefits voted in the past have been wiped out by inflation. The fact is that social-security payments have grown far more rapidly than the cost of living has risen, and the margin is substantial no matter which base date one begins from or which kind of benefit one examines.

THE PENSIONERS HAVE DONE BETTER

Indeed, one might argue that, in a period when many employed Americans really *have* had their income gains eroded by rising prices, the retired have been extraordinarily favored in scoring steady gains in real income. During the five years ending this fall, for example, the consumer price index rose at an average annual rate of 5.2 percent, while average monthly benefits to retired workers rose by 10.9 percent. The recent record features a benefit increase of about 20 percent that went into effect in September, 1972; another 5.9 percent raise was scheduled to be paid out next July and an escalator providing for further automatic raises was scheduled for the following January.

It was against this background that the House Ways and Means Committee voted last month to increase that forthcoming raise: the committee specified a raise of 11 percent, with 7 percent due to take effect in March. The committee also voted to increase the social-security tax rise that had been scheduled to take effect next month. The new maximum tax, payable by anyone making $13,200 or more, is $772.20—a rise of $140.40.

Thus social-security taxes continue to take larger bites out of middle-class family income. There are now millions of families with incomes in the $10,000 to $15,000 range for whom these taxes are more burdensome than the federal income tax.

It is increasingly clear, in any case, that this noncontroversial and largely undebated rise in social-security taxes has put a new light on the issue of a 1974 tax increase, which was being seriously considered in Congress and by the Administration a while back. It will now be very hard to increase taxes; or, more precisely, we have now had the increase and we have already allocated its proceeds. Any new demands on the budget—for increased military spending, say, or for tax incentives related to the energy crisis—must either go unmet or be financed by inflationary deficits. It is hard to believe that any rational appraisal of U.S. priorities nowadays would have resulted in the kind of allocations that Congress has rather mindlessly opted for.

NERVE GAS

Mr. MOSS. Mr. President, the Army has announced plans to make a new and improved brand of nerve gas. Let me say that my great faith in the Army, not to mention my faith in American science and technology, leads me to believe that we will be successful in our pursuit of a better nerve gas.

But before we set out on this project, there is one rather fundamental question that should be answered: Is there really any need for this lethal gas in the first place?

The people of Utah began asking this question several years ago when some VX-type nerve gas was released—apparently by accident—at Skull Valley, Utah, and resulted in the deaths of 6,400 sheep.

In Utah, we have good reason to be concerned about the possibility of another such accident. There is now stored near Tooele the largest single stockpile of nerve gas in the United States. The mute presence of row upon row, barrel after barrel of this deadly material is a stark reminder of the gruesome refinements that have been brought to modern warfare.

At one time, this Nation considered the possession of chemical weapons a necessary evil. Recently, however, a number of us have begun to doubt whether there is any need at all for deterrent stockpile of nerve gas.

In September, Senator HASKELL and I sponsored an amendment to the defense authorization bill calling for the Academy of Sciences to study the most effective means of eliminating all existing supplies of chemical warfare agents in the United States. This amendment became part of the authorization bill, but unfortunately it was dropped in conference.

In October, the House Armed Services Committee held 2 days of hearings for the sole purpose of examining national defense policy with respect to chemical weapons.

Quite clearly, there are now serious doubts about U.S. policy on chemical warfare. So this is hardly an appropriate time for the Army to go ahead with plans to replace today's nerve gas with a newer model.

Mr. President, I plan to bring up the issue of our nerve gas policy later this

week when we are discussing the defense appropriations bill.

What is desperately required at this time is not a better gas, but a complete discussion of our entire policy on chemical agents. An editorial in this morning's Washington Post presents very cogently the case for a critical reexamination of the U.S. policy in this area. I ask unanimous consent that it be printed in the RECORD.

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

CHEMICAL WARFARE

A major opportunity exists to move toward a more responsible policy on chemical warfare but the opportunity may be overwhelmed by Army singlemindedness unless others pay heed. The opportunity was created by a wave of public concern over the storage, testing and transport of nerve gas. Plainly, this was the moment to question whether the United States needed to be in the chemical warfare business at all. The Army, however, plans to solve the problem—which it defines as a public relations problem involving storage and transport—by producing a new brand of nerve gas. To produce the new and destroy the old will cost something like half a billion dollars. As any close student of government ought to know, once a new investment of that scale has been made, the Army's institutional interest in protecting it will be very large.

In fact, what is the reason for this country to remain ready to engage in chemical warfare? The Army's reason is to deter the Soviet Union from using chemical agents. This is like saying that in order to deter the Russians from trampling us with elephant herds, we must raise our own elephant herds. It is, in a word, ridiculous. No canon of war requires the United States to respond with the same weapon used by a foe. We would still retain a broad range of other choices if we relinquished nerve gas and like chemical agents. By relinquishing chemicals, however, the United States would be making a modest but real contribution to a more civilized international society. For the truth is, chemical warfare conveys an image of horror out of proportion to its military potential. Mere possession of chemical agents has come to be a political debit. Whatever the military effectiveness of the chemical agents used by the United States in Vietnam—certain tear gases and herbicides—few detached observers would contend that they outweighed the political opprobrium attached to their use.

In his first term, of course, President Nixon did renounce "the first use of lethal chemical weapons" and of "incapacitating chemicals" as well. He has not, however, moved on to sign the international treaty, known as the Geneva Protocol, which outlaws first use in war of chemical (and biological) agents. Mr. Nixon submitted the Protocol to the Senate in 1970. But because he explicitly excluded control of "riot control agents and chemical herbicides"—not "lethal" or "incapacitating," he claimed—the Foreign Relations Committee referred the treaty back to him. The committee's entirely reasonable view was that it would lower rather than raise the barrier against chemical warfare to ban all forms except the ones which the United States actually was equipped to use.

This is a good time to review the whole question of chemical warfare. The pending need for a half billion dollars for changing models of nerve gas makes the issue acutely topical. The end of American combat in Vietnam makes it possible to consider the Geneva Protocol in an atmosphere free of the turbulent currents of the war. One of the moral highlights of President Nixon's first term was his courageous renunciation of biological warfare—the production of biological agents, their possession and their use. He could well match that achievement with a step forward on chemical warfare now.

DEATH OF HON. GEORGE L. SMITH II, SPEAKER OF THE GEORGIA HOUSE OF REPRESENTATIVES

Mr. TALMADGE. Mr. President, the State of Georgia and the Georgia General Assembly mourn the passing of the Honorable George L. Smith II, speaker of the Georgia House of Representatives, in Atlanta on Sunday, December 9, 1973.

The State of Georgia lost a leader and a statesman. I lost a steadfast friend and valued counsel, a man I have known and admired since our college days, the better part of 40 years.

George L. Smith was in every sense of the word a dedicated public servant. He was cut from an old-fashioned cloth. His word was his bond. His integrity was unquestioned. He was fair. He was good. He was honest.

He coveted no higher office than that which he held. His heart belonged to the Georgia House and its members knew it. He knew when to compromise without giving up substance and honor and, always, when a question was put to him his first response would be, "Is it good for the State of Georgia?"

George L. Smith II, was born in Emanuel County, Ga. He was graduated from Swainsboro High School and from the University of Georgia where he earned his degree in law. He was president of the Georgia Jaycees and, for many years, served as a member of the board of governors of the Georgia Bar Association. He was long active in the Georgia Democratic Party and served as a member of the State Democratic executive committee. Nationally, Speaker Smith was a past president of the National Conference of State Legislative Leaders and, at the time of his death, served on the executive committee of this prestigious organization which is composed of the leadership from every State legislature.

George L. Smith was speaker of the Georgia House for 11 years, the longest any man has held this great position. He served as speaker with three Governors and was a stabilizing force in Georgia political affairs for many years. He was a shepherd of reason. He was a steward of progress.

Georgia will never see another George L. Smith. He was a man's man, a politician's politician, and a legislator's legislator.

George L. Smith was my friend. I mourn his passing. Mrs. Talmadge and I extend our heartfelt condolences to his wife Sally, and his daughter Sally Smith.

Mr. President, I ask unanimous consent that several timely newspaper articles and editorial tributes to Speaker Smith be printed in the RECORD.

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

[From the Atlanta Constitution, Dec. 10, 1973]

HOUSE SPEAKER SMITH DIES

(By David Morrison and Celestine Sibley)

House Speaker George L. Smith died at 4:45 p.m. Sunday, the victim of a massive stroke that kept him unconscious for three weeks.

"He had moments in which he responded to his relatives," an attending physician said, "but he never fully regained consciousness."

After family members were notified and word of the speaker's death circulated, state officials, politicians and friends of the family flooded the switchboard of Piedmont Hospital in Atlanta with expressions of sympathy.

"George L. Smith was one of the finest leaders Georgia has ever known," said Gov. Jimmy Carter, who arrived at the hospital shortly after the speaker's death. "He was a close personal friend of mine and he will be sorely missed in the future."

Carter praised Smith, a 27-year veteran legislator, for "enlightened leadership" in the lower house of the General Assembly. Carter said Smith possessed an innate "ability to bring order out of chaos."

The body will lie in state at the Capitol Tuesday, Gov. Carter said.

Mrs. Smith, daughter Sally and other family members present at the time of the speaker's death planned to stay in Atlanta overnight Sunday before returning to Smith's hometown of Swainsboro to make funeral arrangements.

Former U.S. Sen. David Gambrell, also present at the hospital, said Smith's death is "a very sad occasion for this state. He was a man of great ability."

"We have seen a lot of changes in the legislative system and he has been a leader in that," Gambrell said. "It will be difficult to replace a man of his ability."

The death of the popular Democratic leader left many questions unanswered for the 1974 session of the General Assembly.

However, Carter predicted that Smith's death will cause state lawmakers to set aside political differences and create a productive atmosphere in the General Assembly.

"George L. was one of the greatest Georgians that ever lived," Carter said. "He's put his leadership to great use.

"He has set an example for integrity and competence that many other politicians will emulate for years to come."

Dr. Lamont Henry, an associate of Smith's personal physician, Dr. Bernard Wolff, said there was little chance during the speaker's fight for life that he would survive. Smith suffered a massive stroke at the base of the brain three weeks ago Sunday which Henry described as the ultimate cause of death.

Such a stroke is caused primarily by the filling in of chief arteries, Henry said. The result is sudden or gradual obliteration of the blood supply to the brain.

Wolff was out of town at the time of Smith's death. However, the speaker was attended by another of his associates, Dr. Charles Upshaw Jr.

Mrs. Smith was present as was Smith's daughter, Sally, an airline stewardess, who arrived on a flight from Tampa, Fla., Sunday afternoon.

Speaker Smith, whose 61st birthday anniversary occurred after he was admitted to Piedmont Hospital, visited the Georgia Capitol for the first time when he was a small boy. He saw the House of Representatives in operation—and it was the beginning of a lifetime love affair.

Other men have used legislative service as a stepping stone to more exalted political office. Other men consider the Georgia House or Senate a way station on a trip to the post of governor, congressman, judge or even President of the United States.

George L. Smith II considered the position of Speaker of the Georgia House "the best job and man could ask for—the highest calling."

He held that job for 11 of his years as a seldom opposed, never defeated House member, bringing to it a fierce love and pride that did much through the years to burnish the image of the House itself. He came to the House in 1945, a largely wool hat legislature controlled by the governor he had supported, Eugene Talmadge. Peanut hulls rattled underfoot on the floor, cuspidors were awash with amber and it wasn't unusual to hear the clink of liquor bottles in members' desks. Rep. Smith quickly became a member of the celebrated law-making triumvirate which included Rep. Frank Twitty of Mitchell County, long-time floor-leader, and Rep. Jack Ray of Warren, later state treasurer.

They were a formidable trio who could marshal the votes to pass any bill in which they were interested. One of their strengths was later to become Smith's greatest asset as Speaker of the House.

He knew the House rules "backards, forwards, right side up and upside down," as one member remarked. He studied the rule book as much for pleasure as for profit and he mastered parliamentary procedure for love of its stately language as for the advantage it gave him in a law-passing maneuver.

Later he would make a study of British parliamentary practice, sitting long hours in the House of Commons and tracing the origins of Georgia's parliamentary ritual to its source. Friends he made in British parliament occasionally returned his calls, visiting with him in the Georgia House.

Rep. Smith became Speaker of the House in 1959 with the administration of Gov. Ernest Vandiver. When Carl Sanders became governor in 1963 George L. Smith was replaced by George T. Smith as Speaker. When neither Republican Howard ("Bo") Callaway nor Democrat Lester Maddox received a majority vote in the 1966 general election for governor, Rep. Smith got the chance he had been awaiting for 20 years.

The General Assembly took to itself the responsibility of naming a Speaker, heretofore the privilege of the governor, and George L. Smith got the job.

It was the first "independent" legislature in history and the man who had loved it since boyhood became its leader, possessing powers he always denied holding. The stories of his political power were legion but efforts to give him the nickname "King George" fizzled out because of his accessibility and easy informality with members and the press. However, he was zealous to enforce the rules of the House, wielding a heavy gavel at the first sign of disturbance, particularly if a member used profanity in debate or appeared in the chamber with a bottle of liquor in his possession.

He believed that House members, particularly, Senate members by association with the House, were entitled to more pay and he worked unsuccessfully to get a law passed to increase their terms of office from two to four years. By the same token he expected House members to work and he kept a weather eye on the calendar to be sure no bills were caught in a log jam in the final days of a session and failed of passage. (Some bills, he sometimes pointed out with wry humor, were introduced by their authors with death on the calendar in mind as their most desired destiny.)

[From the Atlanta Journal, Dec. 10, 1973]

SMITH'S BODY TO LIE IN STATE TUESDAY AT CAPITOL

The body of Georgia House Speaker George L. Smith II, who died Sunday afternoon, will lie in state at the state Capitol from noon until 8 p.m. Tuesday.

Members of the General Assembly and friends of the 61-year-old speaker will act as an honor guard while the body is in the rotunda on the second (main) floor of the Capitol.

A delegation led by Gov. Jimmy Carter will escort the body into and out of the rotunda, it was decided at a meeting of the Smith family and state officials shortly after noon Monday.

Funeral services will be held at 3 p.m. Wednesday in Smith's home town of Swainsboro, at the First United Methodist Church.

Most state officials, including Gov. Carter, are expected to attend. The day has been declared "a period of mourning" for Smith, and the Capitol will be closed.

Smith, one of the most powerful men in state government, died at 4:45 p.m. Sunday at Piedmont Hospital in Atlanta where he had been since suffering a stroke Nov. 11.

Smith, who was 62 on Nov. 27, served as speaker of the Georgia House from 1959 until his death, with the exception of the four years, 1962–1964, of the Carl Sanders administration when Sanders as governor pushed through the election of then Rep. George T. Smith to lead the House.

George L. Smith is credited with taking over a disjointed, usually ineffective and often rowdy House in 1959 and through tight control of the membership and sophisticated use of parliamentary procedures instituted a relatively high degree of reform.

His influence on the Georgia House of Representatives carried over into the Senate, which over the years improved its own standards after being frequently compared unfavorably to the House.

Few laws passed either house of the Georgia General Assembly during the Smith years without his personal involvement.

Smith died after battling the effects of the massive stroke for 29 days. He was stricken at his Swainsboro home on Nov. 11 and brought to Atlanta after he failed to respond to treatment.

He remained unconscious and in critical condition most of the time.

"He had moments in which he responded to his relatives, but he never fully regained consciousness," an attending physician said.

Carter ordered state flags to fly at half staff until after the funeral.

The son and grandson of South Georgia physicians, Smith broke family tradition and entered the University of Georgia Law School, where he was graduated and admitted to the bar at age 20.

He returned to practice law in Swainsboro and in 1937 was elected solicitor of the City Court and became city attorney in 1941.

He was elected to the Georgia House from Emanuel County in 1945, served as speaker pro tem from 1947 to 1954, and became Speaker in 1959.

Early newspaper accounts describe him as "cool and fair" in House debates.

Later, as "Mr. Speaker," he acquired the reputation of ruling the House with an iron hand and a rare dedication to parliamentary and political detail. Few bills passed over his opposition, and fewer still failed if he really wanted to push them.

After the gubernatorial election became deadlocked in 1967, with neither Democrat Lester Maddox nor Republican Howard "Bo" Callaway gaining a popular majority due to a write-in movement, the House seized the initiative and elected Smith as its first independent speaker. Prior to that time, the House had rubberstamped the governor's choice for the leadership job.

Consequently, the Swainsboro legislator came to embody the concept of a legislature independent from the governor's office. He himself had been tapped in 1959 as the representative of Gov. Ernest Vandiver, but he ran the House without interference from Govs. Maddox and Carter.

Smith came from a distinguished Georgia family. His father was the late Dr. DeSaussure Dugas Smith of Emanuel County, and his grandfather the late Dr. George Leon Smith of Washington County. A brother, Dr. Wilder Smith, carries on the family medical tradition with a practice in Swainboro.

Smith was born in the small Emanuel County community of Stillmore on Nov. 27, 1912. His mother was the former Gladys Wilder of Pike County, a former regent of the Daughters of the American Revolution and a former state vice president of the PTA.

In 1937, Smith married Frances "Sally" McWhorter Mobley of Monroe, Ga., daughter of Mr. and Mrs. Arthur C. Mobley. Her father was one-time state superintendent of banks.

They have one daughter, Sally, born in 1946.

Smith's list of civic connections was almost endless. He was a Mason, Shriner, Kiwanian, Jaycee and Delta Tau Delta.

He was a Methodist.

At various times, Smith held offices or was a member of the Board of Governors of the old Georgia Bar Association, State Democratic Executive Committee and the National Conference of State Leaders (NCSLL).

He was elected to NSCLL's executive committee in 1960 and became president of the national organization during its 1963–64 term.

[From the Atlanta Constitution, Dec. 10, 1973]

POLITICAL LEADERS PAY TRIBUTE FOLLOWING SMITH'S DEATH

(By Tom Henderson and Gary Hendricks)

"The House can elect another speaker, but Mr. Smith will always be the speaker as far as I'm concerned," said Rep. J. Robin Harris of Decatur Sunday night.

Sadness and a sense of loss were the first reactions of long-time friends and political associates of House Speaker George L. Smith following the veteran politician's death Sunday.

"George took my grandfather's place in the House when he died after taking office in 1945. He'd been there ever since," said State Sen. Jay Cox of Twin City, who represented Smith in the upper house of the legislature.

"After a couple or three weeks you learned to live with him being in terrible shape—but there is still the shock," Cox said.

Most political leaders contacted Sunday night were reluctant to speculate on how Smith's death would affect the House in the upcoming session in January. But expressions of personal loss were almost all followed by statements of the state's political loss.

"We're going to really miss him. I just don't know how he can be replaced. We don't find men of his type very often," said Sen. Hugh Gillis of Soperton.

"I hope we will be a stronger House by his having passed our way," said Rep. Bill Lee of Clayton County when asked how Smith's absence would affect the House.

"I would like to think that the members of the House would rise to the occasion and con-

duct themselves in the next session in a manner to bring credit on the House, because this is what the speaker would want," said Rep. Harris, former chairman of the House Judiciary Committee.

Smith's behind-the-scenes maneuvering was as effective in squashing internal squabbling in the House as his gavel was in controlling floor debates and his death leaves a void in the political power structure of the legislature.

"We've lost a unique individual, a man who provided stability to the government," said Rep. Peyton Hawes, chairman of the Fulton County delegation.

"I just don't know what will happen."

James H. (Sloppy) Floyd, chairman of the House Appropriations Committee and a close friend of Smith's, learned of the speaker's death late Sunday from a newsman.

Awakened at his home in Trion, Floyd said "Georgia has lost one of its greatest citizens and one of its most influential leaders in history. His influence and his thoughts will be felt for many years to come."

"Judge" J. Roy McCracken, who represented Jefferson County in the House for 39 years was one of Smith's oldest friends and associates.

"One of the strongest legislative leaders we have ever had was George Smith. He was instrumental in re-establishing legislative independence. I think the state has lost a great citizen," McCracken said.

O. P. Hanes, who became Smith's top aide after retiring from many years as a political writer for the Associated Press, said Smith was "one of the best friends I've had for a long time. I've just lost a long time friend. I'm pretty shook up about it."

Others were shaken by Smith's death as well, even though the veteran House leader had been in critical condition at Piedmont Hospital since a stroke three weeks ago.

"I'm kind of shook right now," said House Majority Leader George Busbee "I've just lost one of my closest friends and we've lost one of the greatest Georgians and greatest speakers Georgia has ever known."

Speaker Pro-Tem Tom Murphy of Bremen, who would have filled in for Smith had the speaker lived but been unable to carry out his duties in January, said he thought it would be inappropriate to comment on who might succeed Smith in the speaker's chair.

"He was a good friend and a good man," said Murphy. "The state lost a great man and the House lost a great speaker, whom we leaned on so heavily."

House Minority Leader Mike Egan called Smith "the greatest legislative leader in this country. He will be missed personally by all of us."

"I just haven't brought myself together enough to think about what the future brings," Egan said.

Reached late Sunday night, Lt. Gov. Lester Maddox, who often locked horns with Smith while governor, called the speaker's death "a sad and tragic thing.

"He loved politics, he loved government, and most of all he loved the General Assembly," said Maddox, who added that he joined Smith's family in mourning.

Atlanta Mayor Sam Massell said, "George L. Smith was an able parliamentarian and a dedicated public official. As a friend of Atlanta, he understood the problems of Georgia's cities. My thoughts are with his family at this hour of sadness."

[From the Atlanta Journal, Dec. 10, 1973]

GEORGE L. SMITH II

It was with deep regret that we learned of the death of Speaker of the House George L. Smith II of Swainsboro.

Mr. Smith was speaker for many years. While he easily could have won higher political office, the House was his life and the running of it was all he wanted.

In this we were fortunate. Mr. Smith was an intelligent man, an able lawyer and an astute politician. Under his leadership the House could and frequently did perform ably. His presence as speaker was our insurance against the acts of an incompetent in the governor's chair as in this event the House and its speaker could be depended upon to do the real running of the state.

Mr. Smith was a gentleman, a good friend and a good companion. He represented a rural area but he understood urban problems and was sympathetic with them. He loved his state and he wanted peace and prosperity for it and for all races. His was a good life and a constructive one and Georgia is better for it. The Journal joins his many other friends in offering sympathy to his family.

[From the Atlanta Constitution, Dec. 11, 1973]

THE SPEAKER'S LEGACY

House Speaker George L. Smith, as he himself might have phrased it, was a creature of the Georgia House. He loved its legislative processes, the give and take of debate, and he proved himself again and again a stable sound influence for good government in Georgia, a man who loved his state and cared about how government responded to people.

We mourn Speaker Smith. His body lies in state at the State Capitol today. There will be many who will pay tribute.

There is another thing to be said. It is vital that the Georgia House move promptly to elect a new Speaker of the House. We say this not in unseemly haste, certainly not in any disrespect to the departed, but rather in the belief that Smith himself would place the same importance on such action. Indeed, he never recovered consciousness fully from the stroke that felled him. But we believe that, had he been conscious and alert in his last few days, Smith himself might have urged such prompt action on the Georgia House.

We say this not in the sense of having any candidates to offer. The selection of a new Speaker is rightly a choice to be made by the members of the Georgia House.

But we would say this. Speaker Smith gave a new dignity and significance to the deliberations of the House that he loved. At a time when the State Senate, more often than not, devoted its energies to petty bickering and stumbled along without firm leadership, Speaker Smith kept his own strong hand on the captain's wheel of the Georgia House. He did his part in making things work, in making government function in the best sense.

The choice of Speaker Smith's successor addresses itself to all the members of the Georgia House. It is a choice that needs to be made soon. We hope all the members of the House will face up to that choice, not in a sense of partisan jockeying for position, but with an earnest commitment to try to do what is best for the state.

[From the Atlanta Constitution, Dec. 11, 1973]

THE MAN WITH THE JOB HE WANTED

(By Reg Murphy)

Over the years Speakers of the Georgia House have gone on to other—not to say bigger—things. George L. Smith II was the exception, and therein lies the secret of one man's power in a system where power comes to those who grasp it.

Before Smith's time, Roy Harris was the speaker. He went on to gain a reputation as a kingmaker. Much of that reputation was myth; he didn't really elect many governors. But he did help Ed Rivers, Ellis Arnall and Eugene Talmadge in their races.

Fred Hand, whose hand on the Speakership was strong, thought he had built enough bridges over troubled waters to win the governorship. He went down to ignominious defeat, and retreated to Pelham.

In late years, George L. Smith did more than inject initials into Georgia politics. He was the Speaker, and later won the lieutenant governor's job before running out of votes against Lt. Gov. Lester Maddox.

All those worthies though they were building for the future when they wielded the gavel in the House.

Only George L. Smith of Swainboro was strong enough to stop there. (Strong being defined as making the decision to see his limitations and live with them.) "This is the only political ambition I've got," he told me many times.

Just a few days before he suffered the stroke that proved fatal, we were chatting on a MARTA bus. He was riding from a downtown hotel to the Capitol—no cabs or limousines for him just to get to work. A city bus would do just fine.

Anyhow, he was making plans for a new legislative session which begins in January. He thought it might be possible to show the voters that he could bring order to the House in contrast to the chaos he saw Maddox bringing to the Senate.

It was a passion of Smith's to prove that the House was the better of the two deliberative bodies. And that was how he fitted into the overall pattern to win legislative independence.

Independence was a battle to which he came late. He and Frank Twitty of Camilla once controlled the House—he as speaker, Twitty as floor leader—by getting governors to dispense roads and jobs to those who voted with them. In return, the governors got their programs through. There was no independence.

Twitty tired of the legislature, and Smith came to believe it was his high calling to hold the House aloof from the governor's office most of the time.

By the time Maddox was a contestant in the 1967 assembly, where the legislature had to give somebody a majority, Smith went with him rather than with Republican Bo Callaway.

In one of the brilliant pieces of legislative strategy of our time, Smith and friends then proceed to strip Maddox of every power save ribbon-cutting and bicycle-riding. They made budgets and policy while Maddox made speeches. They held the little man in political (not personal) contempt while they made state policy.

Smith was no liberal, no visionary, no do-gooder. He was a tough, resilient, sometimes devious House Speaker. He was too close to some lobbyists, and he suffered occasionally from delusions of grandeur, as when he had a fireplace installed in his office.

With it all, he was a leader. He came from the school which thought the government ought to help those who helped the House leadership. Usually he could find a way to make that happen.

He was, finally, the man who thought the House speakership worthy of his best efforts, not a stepping stone to something else. In an age of unbridled ambition, there was a great deal to be said for working very hard at the only job he wanted.

[From the Atlanta Constitution, Dec. 11, 1973]

"GENTLEMAN FROM EMANUEL" HARD LOSS FOR GEORGIA

(By Celestine Sibley)

Rep. Robin Harris, who says most things well, expressed it for me the other day when he said that the Georgia House can and must elect another Speaker but as far as he is concerned George L. Smith II, now dead, will always be "the Speaker."

Through the years Georgians have seen presiding officers come and go—kings and clowns and well-intentioned fumblers. Among them all George L. Smith, "the gentleman from Emanuel," stood out as the most skillful, the hardest working, the most dedicated Speaker. You could disagree with him—and all of us did from time to time—but you had to admire his ability. I've seen the Georgia House in chaos, particularly one night at the hour of adjournment sine die when the issue of reapportionment was still not resolved. Disagreement followed by disorder swept the chamber. There were shouting matchs and near fist fights. The then Speaker was a well-meaning man but totally inexperienced in coping with a fractious, angry, rebellious House. He finally turned to George L. Smith for help.

It was late in the day for George L., as everybody called him, to take over. He had no official status in controlling the House but from his place on the floor he got the attention of the angry, milling members and somehow got them back to their seats and parliamentary order restored. He did it with patience, good-humor and an appeal for fair play. Sometimes he was not always patient and good-humored. (Once in a column I accused him of losing his ability to laugh and he later told me he was so afraid it was true he clipped the column and framed it to hang in his office—"Just to remind me," he said.) But he was always fair. When he erred, as all men do, he was quick to apologize and to make amends. Last year when the matter of a salary raise for members of the General Assembly was before the House, the Speaker thought he might follow the historic pattern and not ask for a roll call vote. Nobody had ever asked members to stand up and be counted when it came time to vote themselves a pay raise.

At the last minute when he looked over the House, Speaker Smith later told me, he knew the members were above such behavior. They were willing to put their votes and their names on the record, he said. It turned out they were. In the criticism which later engulfed the Senate for its secret vote, he was very happy and proud of the House for its behavior.

Just as he loved the House, maybe second only to the two Sallys in his life, his wife and his daughter, George L. loved his state. The last time the General Assembly made a special train junket to the coast to inspect state properties, I sat with the Speaker and his wife for a little while. I never will forget how his face brightened as the train rolled closer to his own Emanuel county.

He said he got a special good feeling, a sort of lift, when he saw the fields and the trees of home. Wherever he traveled—and in recent years he and Mrs. Smith traveled far—he felt his spirits lighten and his heart beat faster when he came back to Georgia. He was a citizen Georgia can ill afford to lose.

[From the Atlanta Constitution, Dec. 11, 1973]

SMITH TO LIE IN STATE AT CAPITOL UNTIL SWAINSBORO RITES

(By Celestine Sibley)

In a hushed Capitol with the flag flying at half staff and a wreath of white chrysanthemums mutely marking the closed door to the House of Representatives, state officials and his aides Monday worked out details for the lying in state and funeral of House Speaker George L. Smith II.

The Swainsboro attorney, who died at Piedmont hospital Sunday afternoon, was the first House speaker in state history to die in office. He will be the 12th public figure in history to lie in state in the rotunda of the state Capitol.

Official mourning for the man who has been called one of the most influential and respected political leaders in the state will begin at noon Tuesday when his body will arrive at the Capitol for an eight-hour period. Flags were ordered by Gov. Jimmy Carter to remain at half staff on all buildings and grounds throughout the state until after Smith's funeral at the Swainsboro First United Methodist Church at 3 p.m. Wednesday.

Gov. Carter will be waiting at the curbside in front of the Capitol Tuesday to meet the House speaker's widow, their daughter, Sally, and other members of the family. They will be greeted at the door by Lt. Gov. Lester Maddox, Secretary of State Ben Fortson, other constitutional officers, and the leadership of the House and the Senate. National Guardsmen will bear the body to its resting place in the great circular hall in the center of the Capitol, where Confederate President Jefferson Davis was the first person to lie in state in 1893. The Third Army band will play two hymns selected by Mrs. Smith as her husband's favorites, "A Mighty Fortress is Our God" and "Battle Hymn of the Republic," after which L. T. Gilstrap, an assistant House clerk and an ordained minister, will say a prayer.

Gov. Carter will escort Mrs. Smith and their daughter Sally to the rotunda and place a wreath beside the casket, opposite a wreath from the speaker's staff. Smith's body will remain at the Capitol until 8 p.m., when, after a prayer and a hymn played by the National Guard band, it will be moved with a state patrol escort to Swainsboro for the funeral. Carter said Monday his office had been flooded with expressions of sorrow from "the private citizens of Georgia."

"A large number of them and all the state's department heads feel deeply indebted to him for what he has done for them," the Governor said. "They have pledged their support to me and to members of the General Assembly to demonstrate their love of George L. at the coming session. Everybody is determined to make this session especially productive because of the high regard they hold for George L."

Smith was the first speaker of the House to be elected to that post by the independent action of his fellow legislators. He was named in 1966 before the legislature resolved the close vote between Lester Maddox and Republican Howard (Bo) Callaway by electing Maddox governor.

As an independent speaker, the governor said, Smith "expressed—accurately, I feel—the attitude of members of the House." He credited the Speaker with pushing to passage many administrative bills after they were "worked out jointly." The last time Smith took the floor of the House to argue for the passage of a bill was when the governor's bill for early childhood development centers was up for consideration. It passed overwhelmingly.

Throughout the Capitol Monday legislators gathered to speak in low tones of their last conversations with the House leader. Commissioner of Agriculture Tommy Irvin, who will be one of those to greet the Smith family at the Capitol door Tuesday, said he was talking with the speaker less than an hour before Smith suffered a stroke while working in his office in Swainsboro on Nov. 11. They were discussing agricultural bills which may face the upcoming session of the General Assembly.

An honorary escort accompanying the body from A. S. Turner Funeral Home in Decatur to the Capitol will include Smith's aide Bobby Dwelle, House Sergeant at Arms Ed Moses, Gary Mims, Sid Shepherd, Loren Gary, Richard Harper, Sen. Render Hill, his son, Jimmy, House Messenger Elmore Thrash, House Doorkeeper Marion Toms, Clerk Glenn W. (Jack) Ellard, Assistant Clerk Jack Green and Glenn Weathington.

The speaker's nephews will serve as pallbearers. They are: Larry Hayes, Bill Edenfield, Smith Edenfield, Charles Price, George Smith III, Mason Smith, Wilder Smith, Jr., Dess Smith and Roy Hayes.

Mrs. Ernestine Holland, the speaker's secretary for nine years and one of those present in his hospital room at the time of his death, said Mrs. Smith had asked six longtime friends, members of a group of seven couples who were married about the same time the Smiths were married, to serve as honorary pallbearers. They are: Roy Bowen, Charles Elliott, Rufus Youmans, Jimmy Moran, Burchell Smith and Reid Watson.

Mrs. Holland said it is the family's wish to concentrate the public mourning for the speaker in the Capitol in Atlanta and have the service in the First United Methodist Church in Swainsboro mainly for his hometown and Emanuel County friends. There will be a small section reserved for Gov. and Mrs. Carter, who will fly down Wednesday morning with Lt. Gov. and Mrs. Maddox and about a dozen members of the General Assembly. The service will be broadcast to the churchyard for those who cannot find seats in the small sanctuary.

Mrs. Holland asked members of the House and Senate who wish to serve as honor guards beside his coffin in the rotunda to meet in the House chamber between 10 and 11 a.m. Tuesday. They will serve two at a time, along with two National Guardsmen, for 15-minute intervals from noon to 8 p.m.

Members who will flank the Governor and other state officials when he goes out to meet Mrs. Smith will be Lt. Gov. Maddox, President Pro Tem Hugh Gillis, Speaker Pro Tem Tom Murphy, House Majority Floor Leader George D. Busbee, House Minority Leader Mike Egan, Majority Whip Jack Connell, Minority Whip Harry Gesinger, and Reps. Roy Lambert, Ward Edwards, Leon Floyd and Herbert Jones.

Chairmen of the House's 27 standing committees have sent flowers to Swainsboro in the names of their groups. Those who will move with the speaker's family into the church will include his secretary for 33 years, Mrs. Florrie Mae Peebles of Swainsboro and his staff of five secretaries at the Capitol, led by Mrs. Holland.

[From the Atlanta Journal, Dec. 12, 1973]

SMITH FUNERAL RITES HELD

(By Prentice Palmer)

The Capitol said goodby to "Mr. Speaker" in solemn, hushed tones.

An estimated 2,000 to 3,000 Georgians filed by the bronze-colored casket which held the body of George L. Smith II, speaker of the Georgia House of Representatives for 11 years.

The body lay in state in the rotunda of the Capitol for eight hours Tuesday as high elected officeholders and secretaries paid their last respects to a man who in many respects was the most powerful political figure in Georgia.

Funeral services for Smith, who died Sunday following a stroke Nov. 11, were held at

3 p.m. Wednesday in his home town of Swainsboro.

The Speaker, 61, was the 12th public figure to lie in state in the Capitol in Georgia history. Confederate President Jefferson Davis was the first and U.S. Sen. Richard B. Russell Jr. preceded Smith.

He was elected to the House in 1945, served as speaker pro tem from 1947 to 1954, became speaker in 1959 and held the post continuously except for four years.

Smith's body was borne into the rotunda in a flag-draped casket carried by National Guardsmen while the 214th Army Band from Ft. McPherson played "A Mighty Fortress Is Our God" and "Battle Hymn of the Republic," two of Smith's favorite works.

Gov. and Mrs. Jimmy Carter headed a group of state officials who met the speaker's widow, Frances, and their daughter, Sally, as they arrived at the Capitol with other members of the family.

Lt. Gov. Lester Maddox led a delegation of Georgia political figures who formed a corridor for the family and the body into the rotunda, located on the main level of the four-level Capitol.

It was minutes past noon as L. T. Gilstrap, an assistant House clerk and ordained minister, faced the two Smith women and quietly opened a Bible.

"To everything there is a season, and a time to every purpose under the heaven."

The two women held hands tightly as Gilstrap, then Carter, said brief prayers.

Just before the public was allowed to file by the casket, Mrs. Ernestine Holland, the speaker's Atlanta secretary for many years, placed a gavel across the speaker's crossed arms. Army and Air Force National Guardsmen stood at attention.

The body left the Capitol at 8 p.m. for Swainsboro, accompanied by the Georgia State Patrol.

CONSTITUTIONAL RIGHT TO PRIVACY VIOLATED BY BEHAVIOR MODIFICATION DRUG ABUSE PREVENTION PROGRAM

Mr. ERVIN. Mr. President, all over the Nation the courts are showing an increasing willingness to come to the protection of individual privacy, that right which Justice Brandeis described almost half a century ago as "the right to be let alone—the most comprehensive of rights and the right most valued by civilized men."

The Federal District Court for the Eastern District of Pennsylvania, in a recent opinion by Judge John Morgan Davis, in the case of Merriken against Cressman, has upheld the constitutional right to privacy. The case involved a drug abuse prevention program, which not only pressured school students involuntarily to disclose personal information through personality tests, but also applied privacy invading behavior modification, as well as the harmful and often self-fulfilling prophecy of labeling innocent students as "potential drug abusers." It seems to me that Judge Davis' opinion ably speaks for itself in describing both the privacy-invading program and the constitutional right to privacy which forbids forcing it on public school students.

Both because of the excellence of Judge Davis' opinion and because I have received numerous complaints about federally funded drug abuse prevention programs which appear to employ unconstitutional invasions of the privacy and personal integrity of thousands of young Americans, I, therefore, ask unanimous-consent request that Judge Davis' opinion be printed in the RECORD following these remarks.

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

OPINION AND ORDER

[In the U.S. District Court for the Eastern District of Pennsylvania—Civil Action No. 72-2057, September 28, 1973]

Michael Merriken, et al. vs. Wilmer D. Cressman, et al.

I. FINDINGS OF FACT

1. Plaintiff, Michael Merriken, is an eighth grade student at Stewart Junior High School, Marshall and Forrest Avenues, Norristown, Pa. Plaintiff, SYLVIA MERRIKEN, is the mother of MICHAEL MERRIKEN, is a resident of Montgomery County, and pays real estate and other taxes to the county. (N.T. 12/1/72 at 13; N.T. 12/18/72 at 130)

2. Defendants are the Montgomery County Commissioners, the members of the Norristown Area School Board, the superintendent of schools of the Norristown Area School Board, and the principal of Stewart Junior High School. (N.T. 12/1/72 at 13–14)

3. Defendants, acting in concert with each other and with Fred Streit Associates, intend to introduce a program entitled Critical Period of Intervention (CPI) into the Norristown Area School District to be administered to eighth grade students including Plaintiff, MICHAEL MERRIKEN. (N.T. 12/1/72 at 14; N.T. 12/18/72 at 132; N.T. 5/18/73 at 49–50)

4. Defendants intend to expend public tax monies to implement the CPI Program. (N.T. 12/1/72 at 16)

5. The stated purpose of the CPI Program is as a drug prevention approach as contrasted drug rehabilitation efforts. It is designed to aid the local school district in identifying potential abusers, prepare the necessary intervention, identify resources to train and aid the district personnel to remediate the problems and, finally, to evaluate the results. (N.T. 12/1/72 at 14; Piffs' Exh. 7)

6. When suit was first instituted, Defendants did not intend to obtain the affirmative consent of parents to the participation of their children in the CPI Program. Rather, Defendants proposed a "book of the month club" approach in which a parent's silence would be construed as acquiescence. (Piffs' Exh. 3) It was only after suit was started that Defendants offered to change that format so that affirmative written parental consent to participation in the CPI Program would be required. (Piffs' Exh. 4)

7. However, the revised letter to parents makes no provision whatsoever for allowing parents to see the test instrument itself. (Piffs' Exh. 4; N.T. 5/18/73 at 128–129)

8. As originally proposed, the CPI Program contained no provision for student consent. After commencement of litigation, Defendants did modify the test instrument to allow students to return a blank questionnaire. However, no affirmative written consent from the students is contemplated nor is any data made available to students in advance to assist them in their decision. (Defts' Exh. 11; N.T. 5/18/73 at 84; 121–122; N.T. 12/18/72 at 132)

9. In addition to a letter, Defendants propose to send to parents a question and answer sheet explaining the CPI Program. (Piffs' Exh. 5) By the admission of its author, Mr. Streit, that document is a "selling device", "an attempt to convince the parent to allow the child to participate". The whole purpose in composing that document "was to convince parents that they ought to allow their children to participate". (N.T. 5/18/73 at 124) Mr. Streit acknowledged that "there is nothing in this document . . . that is critical of or negative about the CPI Program". (N.T. 5/18/73 at 124)

10. Two child psychiatrists testified without contradiction as to several negative, and indeed dangerous aspects of the CPI Program, none of which are mentioned or referred to in any of the materials to be made available to parents. These dangers include the risk that the CPI Program will operate as a self fulfilling prophecy in which a child labelled as a potential drug abuser will by virtue of the label decide to be that which people already think he or she is any way. (N.T. 12/18/72 at 28–29, 90–92) In fact, the CPI Program manual itself, not available to parents, acknowledges this risk. (Piff's Exh. 7) Another danger mentioned is that of scapegoating in which a child might be marked out by his peers for unpleasant treatment either because of refusal to take the CPI test or because of the results of the test. (N.T. 12/18/72 at 31–32; 90–91) That this is not a mere hypothetical risk was illustrated by an incident involving Plaintiff, MICHAEL MERRIKEN, in which fellow students accused him of being a drug user because his mother does not want him to participate in the CPI Program. (N.T. 12/18/72 at 132–35) Drs. Gordon and Hanford also described the severe loyalty conflict that might result by asking children the types of personal questions about their relationship with parents and siblings which are included in the CPI questionnaire. (Piff's Exh. 1; N.T. 12/18/72 at 30–31, 86) A final example has to do with the qualifications of the personnel who will administer the so-called interventions once the results of the CPI questionnaire have been evaluated. As both psychiatrists pointed out, the types of psychotherapy that are suggested as interventions in the CPI Program are quite sophisticated and require the skills of trained psychotherapists, psychiatrists, psychologists, etc. who have undergone many years of training. However, the CPI Program contemplates that these sophisticated psychotherapy techniques will be administered by school personnel, including teachers without any particular qualifications who have undergone only a short crash course. (N.T. 12/18/72 at 36–38; 92–96; Piffs' Exh. 7; N.T. 5/18/73 at 171)

11. According to the Program, CPI is a "drug prevention approach as contrasted with drug rehabilitation efforts . . . It is designed to aid the local school district in identifying potential abusers, prepare the necessary interventions, identify resources to train and aid the district personnel to remediate the problems and, finally, to evaluate the results". (Piffs' Exh. 7) However, the Program nowhere defines the term "potential [drug] abuser". All that the Program does state is that it will identify patterns similar to marijuana, LSD, barbiturate or amphetamine user. There is no reference to such drugs as cigarettes, alcohol, opium, heroin or cocaine. Moreover, there is no statement as to what constitutes abuse. The study on which CPI is based, however, does contain "an arbitrary set of decisions . . . to define the degrees of use, known or experimental, moderate or heavy". (Piffs' Exhs. 6 & 7; N.T. 5/18/73 at 147)

12. Identification of a potential drug abuser, emotionally handicapped student, or student with deviant behavior or student with specific problems is accomplished by

requiring students such as Plaintiff and also their teachers to complete test questionnaires. (Piffs' Exhs. 1 & 2) The questionnaires ask such personal and private questions as the family religion, the race or skin color of the student (Defendants have since stipulated to dropping this question), the family composition, including the reason for the absence of one or both parents, and whether one or both parents "hugged and kissed me good night when I was small", "tell me how much they love me", "enjoyed talking about current events with me", and "make me feel unloved". In addition, both students and teachers are asked to identify other students in the class who make unusual or odd remarks, get into fights or quarrels with other students, make unusual or inappropriate responses during normal school activities, or have to be coaxed or forced to work with other pupils. Students are at no time given any guidance as to what should be considered an odd or unusual remark or what is to be considered an inappropriate response. For example, there is no warning that political differences or unusual and imaginative insights should not be looked upon as odd remarks or inappropriate responses. (N.T. 5/18/73 at 120–121)

13. Although the CPI Program constantly refers to confidentiality, no specifics are given in the Program itself as to how confidentiality is to be maintained after evaluation. Mr. Streit did testify on this subject but that testimony is far different from what appears in the printed CPI materials. The Program, by its own terms, contemplates the development of a "massive data bank" and also dissemination of data relating to specific students to various school personnel, including superintendents, principals, guidance counsellors, athletic coaches, social workers, PTA officers, and school board members (Piffs' Exh. 6) In fact, at a meeting of the Norristown School Board on Monday, October 23, 1972, parents were advised that teams of faculty members had already been selected to receive data back from the CPI Program in order to implement the intervention stage of the Program in the various schools in Norristown. (N.T. 5/18/73 at 170–171)

14. Even if those who are to be working with the CPI Program were to try and be as confidential as possible, in accordance with Mr. Streit's testimony, there is absolutely no assurance that the materials which have been gathered would be free from access by outside authorities in the community who have subpoena power. Thus, there is no assurance that should an enterprising district attorney convene a special grand jury to investigate the drug problem in Montgomery County, the records of the CPI Program would remain inviolate from subpoena and that he could not determine the identity of children who have been labelled by the CPI Program as potential drug abusers. (N.T. 5/18/73 at 172–173)

15. The second step of the CPI Program is "intervention" or "remediation". The stated purpose of this phase is "to change the cognitive and affective domains of potential drug abusers and other forms of deviant behavior". (N.T. 5/18/73 at 164–166) Intervention may take several forms, some of which are compulsory for the student and which seriously limit and infringe upon individual liberty. For example, one form of intervention, Guided Group Interaction (GGI) is specifically described in the CPI Program as an "involuntary assignment". GGI operates as follows:

a. "The peer group acts as a leveller or equalizer insuring that its members do not stray too far from its ranks".

b. The objective is "specific alteration in acting out or deviant behavior" with undefined terms.

c. "Deviancy is painstakingly defined and discouraged by the group itself. It can include not only socially proscribed behavior but any action which violates the group's specific normative system."

d. Members are compelled to "explain . . . why they have been assigned to the program . . ."

e. The group may impose sanctions on members, including "work detail, withdrawal of past privilege, recommendation to a special unit for intensive training, or the assignment of more onerous tasks". (Piffs' Exh. 6)

16. Intervention is also another major threat to the confidentiality of the CPI Program. For example, one form of intervention is Referral Intervention. Under this program, "responsible school personnel make referral interventions when remediation needed by a particular student far exceeds available school resources. This referral intervention utilizes community resources such as clinics, hospitals, rehabilitation centers, etc. to help the seriously disturbed or serious drug-user student." Another form of intervention is Adult Role Model in which "teachers [are] . . . asked to select two children from the list of identified emotionally handicapped children. They would be given background information on each child . . ."

17. The CPI Program results will not be made available to parents unless they affirmatively request them. (N.T. 5/18/73 at 170)

II. DISCUSSION

The CPI Program as presented above is considered by its advocates, the Defendants, as a voluntary program in which affirmative parental consent is now given before participation by the student; and a student may return a blank questionnaire when the test is administered without apparent recrimination. It is contended that the Program is constitutional and is within discretionary power of the School Board.

The Plaintiffs assert that the Program is not voluntary because individuals' constitutional rights are waived without knowing, intelligent and aware consent. See *Brady v. U.S.*, 397 U.S. 742, 90 S. Ct. 1463, 25 L. Ed. 2d 747 (1969). Before the Court reaches the question of the voluntariness of this Program, we will examine the alleged violations of the Constitution and state why individual constitutional rights are involved in this litigation.

The Plaintiffs claim that the CPI Program will interfere with and impede the Plaintiffs' rights of freedom of religion, freedom of speech, freedom of assembly, privilege against self-incrimination and right to privacy guaranteed by the First, Fourth, Fifth, Ninth and Fourteenth Amendments to the Constitution of the United States.

The main thrust of the Plaintiffs' argument that the CPI Program is an involuntary invasion of constitutionally protected rights, is the violation of the right to privacy. They base their argument mainly on *Griswold v. Connecticut*, 381 U.S. 479, 85 S. Ct. 1678, 14 L. Ed. 2d 510 (1965), in which the Supreme Court ruled that inherent in the first nine Amendments to the Constitution is a right to privacy which is binding on the States as well. In a more recent case, the Supreme Court re-emphasized its position on the right of privacy in *Roe v. Wade*, 410 U.S. 113, 93 S. Ct. 705, ——— L. Ed. 2d ——— (1973), and restated some of the general factual situations to which this right would apply. The Court said in *Wade, supra*, at 152–153:

"The Constitution does not explicitly mention any right of privacy. In a line of decisions, however, going back perhaps as far as *Union Pacific R. Co. v. Botsford*, 141 U.S. 250, 251 (1891), the Court has recognized that a right of personal privacy, or a guarantee of certain areas or zones "of privacy, does exist under the Constitution. In varying contexts, the Court or individual Justices have, indeed, found at least the roots of that right in the First Amendment, *Stanley v. Georgia*, 394 U.S. 557, 564 (1969); in the Fourth and Fifth Amendments, *Terry v. Ohio*, 392 U.S. 1, 8–9 (1968), *Katz v. United States*, 389 U.S. 347, 350 (1967), *Boyd v. United States*, 116 U.S. 616 (1886), see *Olmstead v. United States*, 277 U.S. 438, 478, (928) (Brandeis, J. dissenting); in the penumbras of the Bill of Rights, *Griswold v. Connecticut*, 381 U.S., at 484–485; in the Ninth Amendment, *id.*, at 486 (Goldberg, J., concurring); or in the concept of liberty guaranteed by the first section of the Fourteenth Amendment, see *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923). These decisions make it clear that only personal rights that can be deemed 'fundamental' or 'implicit' in the concept of ordered liberty, *Palko v. Connecticut*, 302 U.S. 319, 325 (1937), are included in this guarantee of personal privacy. They also make it clear that the right has some extension to activities relating to marriage, *Loving v. Virginia*, 388 U.S. 1, 12 (1967); procreation, *Skinner v. Oklahoma*, 316 U.S. 535, 541–542 (1942); contraception, *Eisenstadt v. Baird*, 405 U.S. at 453–454, *id.*, at 460, 463, 465 (White, J. concurring in result); *family relationships, Prince v. Massachusetts*, 321 U.S. 158, 166 (1944) and *child rearing* and education, *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925), *Meyer v. Nebraska, supra.*" (Emphasis added)

This Court will look closely at the factual situation as it relates to family relationships and child rearing. The CPI Program questionnaire asks whether the student's family is "very close, somewhat close, not too close, or not close at all." (Piffs' Exh. 1—Question 7) In addition, the student is asked to answer questions of such intimate things of his parents as to whether they "hugged and kissed him good-night when he was small" (question 53); whether they told him how "much they loved him or her" (Question 54); whether the parents "seemed to know what the student's needs or wants are" (Question 116); and whether the student "feels that he is loved by his parents" (Question 112).

The above questions are samples which represent the highly personal nature of the entire questionnaire. These questions go directly to an individual's family relationship and his rearing. There probably is no more private a relationship, excepting marriage, which the Constitution safeguards than that between parent and child. This Court can look upon any invasion of that relationship as a direct violation of one's Constitutional right to privacy.

The fact that the students are juveniles does not in any way invalidate their right to assert their Constitutional right to privacy. In a "freedom of speech" case involving the wearing of black arm bands protesting the Viet Nam War by students, the Supreme Court, in *Tinker* v. *The Des Moines School District*, 393 U.S. 503, 89 Sup. Ct. 733, 21 L. Ed. 2d 731 (1968), said at Page 511:

"School officials do not possess absolute authority over their students. Students in school as well as out of school are 'persons' under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State."

This Court would add that the right to privacy is on an equal or possibly more elevated pedestal than some other individual Constitutional rights and should be treated with as much deference as free speech. The United States Court of Appeals for the Third

Circuit held in *Stull* v. *The School Board of Western Beaver Junior-Senior High School*, 459 Fed. 2d 339 (1972), in reversing the District Court, that high school dress codes governing the length of hair in the absence of any evidence of disruption or of a health hazard or of an effect on academic accomplishment was violative of due process. In another case involving hair length, the United States District Court for the Northern District of Illinois stated in *Miller* v. *Gillis*, 315 Fed. Supp. 94 (1969):

"Students are persons under the Constitution; they have the same rights and enjoy the same privileges as adults. Children are not second class citizens. Protections of the Constitution are available to the newborn infant as to the most responsible and venerable adult in the Nation."

As this Court ascertains from the above authority that children who are students are entitled to exercise their Constitutional rights, the question then arises whether parents, as guardians of the children, can waive their children's Constitutional rights. In the case at Bar, the children are never given the opportunity to consent to invasion of their privacy; only the opportunity to refuse to consent by returning a blank questionnaire. Whether this procedure is Constitutional is questionable, but the Court does not have to face that issue because the facts presented show that the parents could not have been properly informed about the CPI Program and as a result could not have given informed consent for their children to take the CPI test.

Before dwelling on the question of "informed consent", it should be noted that the case before the Court is a civil case. The Supreme Court has indicated that in civil cases as well as criminal cases the Court should indulge in every reasonable presumption against waiver of procedural due process and an individual's Constitutional rights. See *Fuentes v. Shevin*, 407 U.S. 67, 92 S. Ct. 1983, 32 L. Ed. 2d 556 (1971): *Ohio Bell Telephone Co. v. The Public Utilities Comm.*, 301 U.S. 292, 307; 57 S. Ct. 724, 81 L. Ed. 1093 (1936); and *Aetna Insurance Co. v. Kennedy*, 301 U.S. 389, 393; 57 S. Ct. 809, 81 L. Ed. 1177 (1936). The standards stated in *Brady v. U.S., supra* are applicable in this case, as The Supreme Court stated at 748:

"Waivers of Constitutional rights not only must be voluntary but must be knowing, intelligent and done with sufficient awareness of the relevant circumstances and likely consequences."

The facts as stated show that the letters to the parents were "selling devices" aimed at gaining consent without giving negative information that would make the parents completely aware of "the relevant circumstances and likely consequences" of the Program. Mr. Streit, the man who conceived the CPI Program, admitted that the letter to the parents gave only one side of the test picture. There were no statements to the parents concerning the self-fulfilling prophecy, scapegoating of those children who opted not to participate or the ultimate use of the data as it would affect their children and law authorities who might find it necessary to use that information to learn more about the drug situation in the local community.

The Law does not abound with cases, or expert treatises on the problem of personality testing and confidentiality, and the problems of informed consent. However, in a recent Federal Bar Journal article by Charles W. Sheerer and Ronald A. Roston, on "Some Legal and Psychological Concerns About Personality Testing in the Public Schools", 3 Fed. Bar Journal 111 (1971), there is some insight into the problem of scientific testing and the American parent. They stated at 114–115:

"The average American parent has a great and naive faith in 'scientifically' constructed tests. This faith is reinforced by the unconscious desire of the more insecure parents to avoid involvement and to depend on 'professionals' to make the difficult decisions in the education and maturation of their children . . .

"In all probability, he is not clear regarding the qualifications of the school 'psychologist' who is likely to hold a master's degree in school psychology, not from the psychology department of a college or university, but from an education school or department. Chances are great he has not had significant supervision in a hospital, or outpatient clinic, or from a clinical psychologist or psychiatrist. He is likely to be considered 'untrained' by the persons that parents have in mind when they 'picture' a psychologist . . . Informed consent for personality testing should be comparable to the informed consent ideally obtained by a physician prior to the performance of surgery . . ."

This Court feels that however good may be the intent and motive of the Defendant, the presentation of the CPI Program to the student and the student's parents is far from candid, and any attempt at informed consent does not reach the level that this Court would consider adequate as in the "consent ideally obtained by a physician prior to the performance of surgery". The parents are not aware of the consequences and there is no substitute for candor and honesty in fact, particularly by the school board who, as the ultimate decision maker as far as the education of our children is concerned, should give our citizenry a more forthright approach. The attempt to make the letter requesting consent similar to a promotional inducement to buy, lacks the necessary substance to give a parent the opportunity to give knowing, intelligent and aware consent.

The actual testing of the students and the results gained are suspect. All that the Program does state is that it will identify patterns similar to marijuana, LSD, barbiturate or amphetamine users. There is no reference to the use of drugs and there are no statements as to what constitutes abuse. The study nowhere defines what is a potential drug abuser and is vague in the relationship of its background analysis to the intended results.

There is a statement concerning the confidentiality of the test during its administration and during the immediate evaluation period that is comprehensive and well explained, but the credibility of the confidentiality of this Program breaks down when the potential drug abusers are reported to the school superintendent. The school will then attempt remediation by the use of teachers, guidance counselors and others, who have had little training in the area of psychological therapy in either individual or group therapy sessions. The ultimate use of this information, although possibly gained with a great deal of scientific success, is the most serious problem that faces the Court. How many children would be labeled as potential drug abusers who in actuality are not, and would be subjected to the problem of group therapy sessions conducted by inexperienced individuals?

Strict confidentiality is not maintained after evaluation and there are many opportunities for a child to suffer insurmountable harm from a labeling such as "drug abuser" at an age when the cruelty of other children is at an extreme. The seriousness of this problem is illustrated by the fact that if one child is so harmed and would be temporarily or permanently damaged by the label of "drug abuser" is this Program worth the effort to identify other actual "drug abusers".

When a program talks about labeling someone as a particular type and such a label could remain with him for the remainder of his life, the margin of error must be almost nil. The preliminary statistics and other evidence indicate there will be errors in identification. The Court recognizes that the Supreme Court has spoken and many Law Review authorities have spoken about a balancing test. What this means is that the Court balances the invasion of privacy against the public need for a program to learn and possibly prevent drug abuse in a society which has become highly aware of the dangers and effects of drug abuse. If the Court finds the public need so great and the invasion minimal, then it could sanction the Program in favor of public need. The Supreme Court in *Barenblatt v. U.S.*, 360 U.S. 109, 79 Sup. Ct. 1081, 3 L.Ed. 2d 1115 (1959) stated at 126:

"Where First Amendment rights are asserted to bar governmental interrogation resolution of the issue always involves a balancing by the courts of the competing private and public interests at stake in the particular circumstances shown." See also *Konigsberg v. California State Bar Association*, 353 U.S. 252, 77 Sup. Ct. 722, 1 L. Ed. 810 (1957); and 366 U.S. 36, 81 Sup. Ct. 997, 6 L. Ed. 2d 105 (1961).

The Court, in balancing the right of an individual to privacy and the right of the Government to invade that privacy for the sake of public interest, strikes the balance in favor of the individual in the circumstances shown in this case. In short, the reasons for this are that the test itself and the surrounding results of that test are not sufficiently presented to both the child and the parents, as well as the Court, as to its authenticity and credibility in fighting the drug problem in this country. There is too much of a chance that the wrong people for the wrong reasons will be singled out and counselled in the wrong manner.

The Plaintiff also contends that other Constitutional rights will be violated if the Defendants are allowed to proceed with the CPI Program. There is no other Constitutional right that this Program would violate besides privacy. The protection against self-incrimination violation may be moot because of the new Pennsylvania Law which attempts to prevent the use of information, obtained confidentially from students, from being used against them in legal proceedings without consent. (24 P.S. § 13–1319)

The evidence presents no violation of the Constitutional right of the student to speak or assemble. The Court recognizes, however, that young people at the junior high school level are ostracized for unpopular views by their peers but no school authority is preventing the students from speaking or assembling. Although there may be a chilling effect or a step in the direction toward the prevention of free speech and assembly, this Court feels that there is no violation of Constitutional rights in this particular fact situation.

The Defendant maintains that the Legislature has vested the school board with discretionary power to act, that is, to test its students, and the burden placed on the Plaintiffs to show that this power is being abused is extremely heavy. *Lamb v. Reeding*, 234 Pa. 481 (1912); *Robb v. Stone*, 296 Pa. 1922 (1929); and *Richmond v. Cole Township School Directors*, 317 Pa. 266 (1935). However, as the facts presented in this case, vis-a-vis, a violation of one's Constitutional rights, so overwhelmingly carries the burden there is no question that the school board has overstepped its discretionary authority.

The CPI Program attempts to determine relative to today's problem of drug use and abuse what steps can be taken to prevent students from becoming drug abusers; and if such a program as presented here could be used to identify those who are potential drug abusers. Unfortunately, this Program does not meet the necessary Constitutional and procedural requirements. Setting precedents as to invasion of Constitutional rights without informed consent must be examined very closely and only employed when the balance weighs so heavily in favor of the public need. As the Program now stands the individual loses more than society can gain in its fight against drugs. The Court will enjoin this Program as it fails to meet Constitutional standards.

III. CONCLUSIONS OF LAW

1. This action is brought to redress the deprivation by Defendants, under color of state law, of the rights, privileges and immunities secured to Plaintiffs by Article I, Section 9, Clause 3 and the First, Fourth, Fifth, Ninth and Fourteenth Amendments of the United States Constitution. The Court has jurisdiction of the action pursuant to 28 U.S.C. § 1343; 28 U.S.C. § 1331.

2. The CPI Program will violate the Plaintiffs' right to privacy inherent in the penumbras of the Bill of Rights of the United States Constitution.

3. Under the CPI Program, Defendants would unlawfully and without authority attempt to exercise the exclusive privileges of parents, extending into areas beyond matters of conduct and discipline, in excess of their power and contrary to law.

4. The CPI Program will be administered without the knowing, intelligent, voluntary and aware consent of parents or students.

5. Defendants, their agents, servants and employers and all persons acting in concert with them are permanently enjoined and restrained from implementing or in any other way proceeding with the CPI Program and from expending any further county or school district revenues on the CPI Program.

FAIR TREATMENT FOR SMALL BUSINESSES DURING FUEL SHORTAGES

Mr. SPARKMAN. Mr. President, the Subcommittee on Environmental, Rural and Urban Economic Development of the Select Committee on Small Business recently concluded 3 days of hearings on the impact of fuel shortages on small business. I want to commend the chairman of the subcommittee, the Senator from Georgia (Mr. NUNN), for conducting this timely and much needed inquiry.

Among witnesses heard was an independent businessman from my own State of Alabama, Carl Vaught, who is president of the Alabama Refining Co. This company is a small business refinery, but we in Alabama take pride in the fact that it is one of the top five suppliers of fuels to the Defense Department.

Mr. Vaught's testimony illustrates some of the many problems which independent businessmen are experiencing as the shortage of oil in this country becomes more apparent. I was particularly impressed with Mr. Vaught's survey of customers which established that the 29,000 barrels of fuel oil he produced in November 1972, sustained 3,600 full-time jobs. Put another way, one job must be supported by 8 barrels of fuel oil a month in the industries and facilities which he services. It is apparent that the economy of the Mobile area, including its fishing fleets, port facilities, paper and chemical plants, and food production is not in a position to sustain massive cutbacks of fuel. Accordingly, our fuel shortages must be solved in a way that assures small and other businesses in Alabama a fair share of available petroleum products.

I believe that this well-prepared and documented testimony deserves wider circulation. For this purpose I would like to ask unanimous consent that the statement and certain exhibits be printed in the RECORD following my remarks.

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

STATEMENT OF H. CARL VAUGHT

Thank you very much for the privilege of appearing before this subcommittee. I am H. Carl Vaught, President of Alabama Refining Company, Inc. of Mobile, Alabama, a wholly-owned subsidiary of Marion Corp., incorporated in Nevada. Alabama Refining Company consists of a single small business oil refinery engaged in producing and distributing several refined petroleum products. I am a Director of the National Petroleum Refiners Association and a member of the American Institute of Certified Public Accountants. My total association with the petroleum industry covers nineteen years with both large and small businesses, and as a practicing Certified Public Accountant with clients involved principally in the oil and gas industry.

I. BRIEF HISTORY OF THE COMPANY

Alabama Refining Company constructed its facility in 1967 in Mobile, Alabama, in order to manufacture and provide jet turbine fuel to the several large military installations nearby and to eventually meet the growing needs of a developing Eastern Gulf Coast for industrial fuel oil. This venture constituted the first new refinery in the United States since inception of the Mandatory Oil Import Program in 1959, and the Small Business set-aside program encouraged our company to maintain a satisfactory market for over 50 percent of its production. In addition, the establishment of the Start-up Oil Import Quota in 1968 enabled this business to compete with large and more established refineries.[1]

Since its inception our refinery has undergone and is still undergoing a series of expansions. Initially designed to operate at 10,000 barrels per day, the refinery is currently operating at 15,000 barrels per day. (An increase in operating capacity of up to 20,000 barrels per day was, prior to the mandatory allocation program, planned by August 1974.) With continued emphasis on producing jet aircraft fuel, our refinery has become one of the five largest suppliers of grade JP-4 jet fuel to the Department of Defense. With increased industrial development and decreasing supply of other fuels the company has also rapidly expanded its fuel oil service to industries in the Eastern Gulf Coast Region. Alabama Refining Company produces the following products shown as percentages of its crude oil supply:

(In percent)

LPG	5
Jet aircraft turbine fuel	50
No. 2 oil	20
Lube oil base stock	15
Total	100

The company's product distribution is summarized as follows:

(In percent)

Military and governmental needs	55
Fishing, transportation, and manufacing	15
Sales for further processing	30
Total	100

II. FOREWARNINGS OF AN ENERGY SHORTAGE

The present energy shortage or crisis should not come as a surprise to this country. All indications of a forthcoming shortage were present by mid-1970. Indeed, the problem was widely discussed and well defined by both industry and government several years ago, and several large oil companies prepared and distributed excellent presentations regarding this problem. An example of such a presentation (by Shell) is contained in Exhibit A hereto. In addition, both Time and U.S. News and World Report featured in August of 1970 reports which warned of impending fuel shortages. (See Exhibit B hereto) Although this country escaped a fuel shortage during the winter of 1970–71, Time magazine published in April of 1971 additional warnings of energy troubles ahead. (See Exhibit C hereto) Anticipated shortages in the winters of 1971–72 and 1972–73 did not reach major proportions primarily because of unseasonably warm weather over large areas of the United States. We lived, however, in a "fool's paradise" while supply conditions continued to worsen and government policy remained geared to the 1960's.

Several proposals made by the industry representatives which would have provided environmentally acceptable fuel oils from imported crude oil in what was then excess United States refining capacity were not approved. Alabama Refining Company petitioned the Office of Emergency Preparedness and the Secretary of Interior on September 14, 1970 regarding a plan of this type without ever receiving a response. (See Exhibit D hereto) Indeed, much of the government's attention in this regard seemed not to be directed to industry's efforts to get to the source of the problem but to the plight of many private distributors and consumers whose difficulties were only symptoms of the problem. In many cases such shortages resulted from inadequacies of transportation, archaic procurement methods, and previous business considerations which backfired in light of rapidly changing conditions. This matter is covered in more detail in our initial comments applicable to proposed mandatory fuel allocation in September of 1973. (See Exhibit E hereto)

While the demand for refined petroleum products in the United States was in the process of doubling between 1960 and 1975, it was not until April 18, 1973, that the Federal Government took the initial step to minimize the impending energy shortage. At that time Presidential Proclamation 3279 was modified to lift restrictions on oil imports and establish a National Energy Office. The recently-passed Emergency Petroleum Allocation Act of 1973, which seeks to distribute the available energy supply equitably cannot be expected to solve the shortage itself.

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[1] The Senate Select Committee on Small Business supported and was instrumental in the start-up import quota incentive being established. Since its creation there were several new refineries built and numerous expansions which benefited from having initial import quota parity.

III. ENERGY OUTPUT AND ENVIRONMENTAL AND OTHER GOVERNMENTAL POLICIES

Not only has the Federal Government's reaction to the energy shortage been untimely, but domestic policies relating to environmental programs have also hindered efforts to increase energy production. For example, but for the delays caused by judicial and administrative proceedings, the Alaska Pipeline might today be available to help alleviate the energy shortage which this country faces.

We in the State of Alabama face a particularly difficult environmental barrier. The Mobile County Board of Health has directed industry within its jurisdiction to comply with federal primary air standards by January of 1974, a whole year earlier than is generally required under federal law. Without some flexibility or extension of time with respect to this requirement, we will be unable to meet these standards since the necessary anti-pollution equipment is presently unavailable.

For example, a vapor recovery system on oil storage tanks requires considerable plate steel and tubular steel, both of which are presently on allocation to manufacturers. An order for steel plate which is placed today cannot be delivered until December of 1975, which is well beyond federal, state, and Mobile County environmental compliance deadlines. Further, it is now virtually common practice to barter scarce petroleum products for scarce items of steel, and such bartering is the only hope this company has to meet even federal environmental compliance deadlines. Under present regulations a failure to meet such deadlines may result in court-ordered shutdowns. While we think it is unlikely in view of the energy crisis that federal or state authorities would require a refinery to cease operating, the refinery is nevertheless subject to criminal and civil sanctions for failure to comply, absent any extensions of time for compliance.

Although we are not unmindful of industry's firm obligation to manufacture its products within acceptable ambient air standards, we feel that in view of the energy crisis with which this country is presently confronted, as between cleaner air and immediate and maximum output of energy through available sources, the balance is weighted in favor of energy output, at least until the present crisis is abated.

In addition, the public's concern over inflation preempted measures which could have been taken to minimize the energy shortages. For example, in some cases, regulations issued under the Economic Stabilization Act actually resulted in domestically produced heating oil being exported because of the great disparity in foreign and domestic prices.

IV. EFFECTS OF MANDATORY ALLOCATION

Mandatory allocation of crude oil and refined petroleum products will have profound effects on both large and small businesses. Fossil fuels provide over 90 percent of the useable energy in the United States, and practically all of the population utilizes commercial energy in some form. Small businesses account for 50 percent of this country's total employment and 40 percent of its gross national production. Limitations on available energy will, in all probability, result in significant unemployment. The crippling, if not extinction, of small businesses can be expected in any prolonged period of restricted energy sources.

The following information is intended to demonstrate to this subcommittee the effects of mandatory allocation on the region served by our company. I am in a position to be specific inasmuch as we deal directly with fuel consuming enterprises and not from an office located hundreds of miles away with representation through jobbers, dealers, agents or brokers. Currently we distribute No. 2 and/or No. 2 diesel oil to 25 businesses, approximately one-half of which are small businesses, which can be classified into the following categories:

1. Fishing and Food Processing.
2. Chemical and Manufacturing.
3. Transportation.
4. The Port of Mobile.

Each of the above can be considered "fuel intensive industries," i.e., fuel is a major cost of production or cost of service item to them.

We asked each of our customers of industrial fuel oils to comment with respect to:

1. The effects of a 15 percent fuel oil reduction on his business.
2. The effects of a 30 percent fuel oil reduction on his business.
3. The effects on his business should it receive no fuel from Alabama Refining Company.

The consensus of our poll was that any reduction in fuel oil availability would probably proportionately decrease production as well as affect employee lay-offs. It is our understanding that in the case of a 30 percent reduction in fuel oil availability, approximately 800 full-time workers of these companies would be laid off.

Additionally, these 25 businesses were almost universally of the opinion that any attempt to acquire replacement fuel, through federal or state agencies, would require several months, during which time much damage would have been done to the businesses. In the event we could not offer fuel oil to these customers, several businesses would immediately be required to cease operations, and several others would be required to severely restrict production resulting in an immediate lay-off totalling over 3,600 full-time employees. (See Exhibit F hereto) Over the longer term much larger numbers of lay-offs would result in other industries serving our fuel oil customers.

As an example, the operations of the Alabama State Docks, which is the nation's 13th largest port handling an average of 605,000 tons of cargo monthly, would be severely hampered by petroleum production cutbacks. Exhibit F indicates that 29,000 barrels of No. 2 fuel oil per month to basically fuel intensive industries sustain over 3,600 full-time jobs. Stated in another way, eight barrels per month of No. 2 fuel oil equals one full-time job in these particular industries. We believe that our general location has an economy which is not sufficiently strong to withstand many business closures and/or employment lay-offs. While our area of operation is also served by several major oil companies, they have all curtailed supplies to some extent. To date, however, we have not rationed products to any customer.

We estimate that a return to 1972 production levels under mandatory crude oil allocation will result in a 37 percent decrease in production. Such a decrease would severely curtail a major source of the Defense Department's jet aircraft turbine fuel. Most of this jet fuel is used at Fort Benning and Moody Air Force Base in Georgia, at Pensacola Naval Air Station, Eglin Air Force Base and Tyndall Air Force Base in Florida, and at other defense locations in south Alabama and southern Mississippi. Replacement for this supply, if available at all, would necessitate transportation from much greater distances and would place an additional burden on already strained water transportation systems at greater costs.

Further, a return to lower 1972 production levels would result in abandoning future refinery expansion plans, a result entirely incompatible with this nation's need for additional refinery capacity.

The effects of mandatory allocation of petroleum products on small businesses relate to the same economies of scale which give rise to mass production. Mass production results in lower per unit costs of manufacturing. By this same function, a production curtailment in a small business is more severely felt than a like percentage production curtailment in a large business. For example, a 30 percent fuel shortage resulting in a 30 percent production cutback could result in a small business operating at less than its breakeven point, whereas a large business in the same industry possibly could sustain itself indefinitely, although at lower profitability.

V. RECOMMENDATIONS

In conclusion, I respectfully make the following recommendations to the subcommittee:

1. I recommend that allocation programs should be sufficiently flexible to avoid employee lay-offs or production decreases which result in an inability to continue in business. Such regulations should apply in the first instance to going concerns rather than to businesses which have already succumbed to the energy crisis.

2. I recommend that legislation be enacted which, upon certification by the business that antipollution equipment is unavailable, requires federal, state and/or local authorities to grant extensions of time in which to comply with environmental standards. In this regard, I would further recommend that small businesses be granted such extensions upon certification that installation of such antipollution equipment, even if available, will be so costly as to cause that business to operate at a loss. It can be expected that petroleum production cutbacks will create substantial profit losses to small business and indeed cause many to operate at a loss. We believe it would be grossly inequitable to require companies in such circumstances to assume the enormous costs of installing antipollution equipment until the present energy crisis subsides.

3. I further recommend that, insofar as it is possible, any mandatory allocation program should exempt from crude or refined petroleum product cutbacks energy producing businesses. Crude oil in particular should be excluded from allocation, since it is neither a consumer item nor generally an industrial fuel.

4. I recommend that refined petroleum products traded for other products, crude oil, or an absolutely essential product of service be exempt from allocation by the producer or party relinquishing such material in trade. Such trades do not affect the overall supply available, but rather serve to decrease transportation costs and/or permit up-grading of such materials to higher uses. For example, heavy residual oils are permitted to be cracked up to home heating fuel oils through trading by a refinery without cracking equipment to a refinery having this capability. Exchanges are an important element to many refiners. For example, over 11,000 out of the total 15,000 BPCD of crude oil used by our refinery is derived from exchanges.

5. Lastly, I would recommend that legislation be passed prohibiting the export of gasoline, distillate fuel oils, and propane gas until such time as shortages of these products no longer are present. I understand that legislation in this regard is presently pending before Congress, and we urge its enactment.

Mr. Chairman, I would be pleased to respond to any questions you or other members of the subcommittee may have. I appreciate your attention and the privilege of appearing before you today.

[From U.S. News & World Report, Aug. 24, 1970]

UNITED STATES MOVES TOWARD A FUEL CRISIS

With little advance warning, the U.S. finds itself on the brink of an energy crisis. There

are growing shortages of fuels from which energy flows to keep America's machinery humming and provide the base for its high standard of living.

Alarm is spreading at the highest levels in Washington.

The problem goes far beyond finding power to carry Eastern cities through the remaining days of summer heat and smog. Predicted are shortages, now or in the near future, of every basic source of energy—oil, natural gas, coal, hydroelectric power and nuclear power.

President Nixon, on August 6, warned of "the acute shortage of clean fuels for this winter." He directed his Domestic Council to take steps to alleviate this winter's shortages, and "to ensure an adequate fuel supply for the next five years."

On August 10, the Chairman of the Federal Power Commission, John N. Nassikas, reported coal stocks of many power companies "below normal operating levels," natural-gas supplies "critically short," and the supply of heavy fuel oil for utilities and industries jeopardized by a shortage of oil tankers.

WHAT HAPPENED?

Only a few months ago, the structure on which the U.S. supply of essential power sources is based seemed relatively secure and stable.

As 1969 ended, there was concern over dwindling U.S. reserves of natural gas, documented in a staff report of the Federal Power Commission. But the supply of crude oil available to the U.S. seemed more than ample. In fact, the majority of a Cabinet task force urged in February, 1970, that oil-import controls be modified to bring more foreign oil into the country and thus lower prices of gasoline and petroleum products.

Now, fast-moving developments have sent the nation's energy-supply structure tumbling. Growing concern over environment is seen by many experts as the main trigger to recent events. Says Charles Primoff, chief of the fuels and energy division of the White House Office of Emergency Preparedness:

"Environment is a principal reason for this sudden plunge into fuel scarcity. Air-pollution regulations, going into effect in many areas, have ruled out high-sulphur fuels—especially coal. Utilities, industries, government installations, office and apartment buildings are trying to switch to natural gas or low-sulphur residual oil.

"Natural-gas supply was already pinched. U.S. refineries for years have been cutting back on production of residual oil because imports made the price unattractive. Then came trouble in the Middle East, forcing more shipment of oil to Europe the long way around Africa. Tanker rates have gone through the roof, and so has the price of imported residual oil.

"Now coal, which could help ease this crisis, has become scarce. New environmental laws have increased strip-mining costs. The Federal Coal Mine Health and Safety Act, effective this year, has pushed up costs in underground mines.

"Some mines have closed, and many more may have to close. Others have been reluctant to expand production because of predictions that nuclear power would take over much of their market. But growth of nuclear power is far behind schedule for many reasons, not the least of which is the problem of locating plants where they will not disturb environment or people."

HIGHER PRICES?

If environment is to be protected and fuel shortages averted in the short and long-range future, energy experts say, consumer costs must rise sharply.

"The days of artificially low energy costs are drawing to a close," says John D. Emerson of the energy-economic division of the Chase Manhattan Bank in New York City. Mr. Emerson puts the situation in this perspective:

"Efforts will undoubtedly be made to protect the homeowner from the impact of the widespread and severe shortages which will develop over the next decade. Their success will vary from region to region. At this stage, it is not possible to be more precise. But one thing is sure: whether efforts are made to increase domestic supplies of suitable fuels for the residential market, or whether the nation will come to rely more on imports of foreign fuels, prices will rise."

A long period in which U.S. consumers have enjoyed a fast-rising supply of energy, at relatively stable costs, appears to be nearing an end.

American homes in 1970 consume more than six times as much electricity as they did in 1950. Use of basic fuels for home heating has increased by 50 per cent in the same period.

On August 7, Dr. Paul W. McCracken, Chairman of the President's Council of Economic Advisers, issued an "inflation alert" in which he stated that "an important increase appears to be in progress in energy prices." Dr. McCracken gave this detail:

"Electricity prices have to date moved only slowly. Wholesale electricity prices are up only 1.8 per cent in the 12 months ending in June, although this is itself a departure from the stability of earlier years. Wholesale natural-gas prices have increased about 3 per cent in the last 12 months.

"These conditions of stability, however, are likely to change. . . . The prices of fossil fuel (coal and oil), which accounts for over three quarters of the production cost to generate electric power, have skyrocketed. Over half of the electric power in the county is generated by burning coal, and utility rates often contain an escalator clause tying the price of power to the price of fuel. . . ."

Dr. McCracken noted that the Tennessee Valley Authority, a public power agency long regarded as a "yardstick" for the power industry, is planning a substantial rate increase.

The higher TVA rates, effective October 1, will boost power costs to consumers in the utility's Southeastern U.S. service area by an estimated 23 per cent. The rate boost is attributed by TVA officials to "rapidly rising costs for the coal burned in TVA steam-electric plants."

U.S. demand for energy in the decade 1970 to 1980 is expected to increase by 56 per cent. That forecast comes from the energy-economics division of the Chase Manhattan Bank, which provides this breakdown of present sources of energy:

(In percent)

Oil	44.7
Natural gas	31.4
Coal	20.0
Hydropower	3.6
Nuclear power	0.3

All of these five energy sources must be expanded in the decade ahead if Americans continue to live in the style to which they have become accustomed. This look at present prospects and a size-up of possible expansion of each energy source comes from experts in government and industry:

OIL: THE BIG SCRAMBLE

U.S. demand for oil is tremendous—an average of 14.8 million barrels a day. The system delivering this oil, experts say, had become so strained that recent demand shifts have knocked it out of kilter.

A basic switch, says Richard J. Gonzalez, oil economist and consultant in Houston, Tex., has been to the industrial fuel oil known as "residual" because it is what remains when higher-quality products have been refined from crude petroleum.

A major source has been Venezuela, but much of its petroleum is too high in sulphur to meet U.S. air-pollution regulations. Equipment to remove sulphur from Venezuelan oil is going in, but will not be ready for several months.

A scramble for other sources of residual oil, combined with the tanker shortage, has pushed the average price on the U.S. East Coast to $4 a barrel, more than double that of a year ago.

Meanwhile, demand for all kinds of oil is rising fast. "Allowable" production in Texas, top oil-producing State, was raised August 1 to the highest level in 17 years. Louisiana's production is also at a record high.

Mr. Gonzalez notes that federal leasing of offshore lands is at a virtual standstill, because of concern over oil spills.

More oil from Canada is a possibility to ease the present crisis, but over the long pull U.S. officials are not counting on large amounts from that country because demand there is rising, too.

Mr. Emerson of the Chase Manhattan Bank says that, at best, the flow of oil from Alaska by the end of this decade will be 2.5 million barrels a day. By that time, he predicts that U.S. demand may be as high as 25 million barrels daily, and as much as 7 million barrels a day will have to be imported from the Middle East and Africa.

Price and supply of Middle East oil, experts note, can change quickly. A few months ago, Persian Gulf oil could be laid down in the U.S. for less than $3 a barrel. Now, because of higher tanker rates, the cost ranges from $4.60 to $4.70 a barrel.

NATURAL GAS: A SQUEEZE

Gas producers have long maintained that federal regulation had held prices too low to encourage exploration. The Federal Power Commission, since a U.S. Supreme Court decision in 1954, has had authority to regulate wellhead prices of natural gas moving through interstate pipelines.

Now the FPC is acting to raise price ceilings. Says Chairman Nassikas, who came to the Commission in 1969: "We are attempting . . . to recognize the law of supply and demand and market conditions by taking action . . . to get gas flowing."

Most industry experts are predicting that critical natural-gas shortages will persist, even so. At hearings held in mid-July in New Orleans by the Interior Department on whether to open new areas offshore from Louisiana for oil and gas exploration, Mr. Emerson of Chase Manhattan Bank said:

"The total availability of gas that we can see in 1980 amounts to 63 billion cubic feet a day. Compared to the potential demand of 93 billion cubic feet a day, there is thus a deficit of 30 billion cubic feet a day—equivalent to more than 5 million barrels of oil."

COAL: SPOT SHORTAGES

The Office of Emergency Preparedness estimates total 1970 use of coal at 583 million tons, and production at only 571 million. Above-ground inventories are already shrinking, and spot shortages are showing up.

In early August, according to OEP officials, electric utilities nationally had 50 days' supply on hand. Ninety days' supply is considered normal. Some utilities were reported down to five days' supply and paying "staggering" prices for additional coal.

Bituminous-coal prices, on the average, increased by 35 per cent from June, 1969, to June, 1970, according to the "inflation alert" issued by the White House on August 7.

Coal-supply problems have been accentuated by a dearth of railroad coal cars. Railroads have hesitated to order new cars in recent years because official forecasts have

indicated that nuclear energy would take over much of coal's market for power generation.

For the long range, U.S. underground reserves of coal are enormous. But mining will have to be expanded and technology developed to remove sulphur from the coal itself and the smoke it produces.

NUCLEAR POWER: A SHORTFALL

A comment from FPC Chairman Nassikas: "The program for installations of nuclear power generation has lagged two or three years behind the predicted level of five years ago. . . ."

A study prepared for the Joint Committee on Atomic Energy of the U.S. Congress shows this: Of the 65 nuclear-power units that had been scheduled to go into service between 1970 and 1976, a total of 23 have already been delayed anywhere from a few months to well over a year.

Mr. Nassikas attributes the lag in development of nuclear energy to "delays in deliveries by major manufacturers of equipment, environmental opposition to proposed sites and technological problems affecting both physical and economic operation."

There is optimism that the present shortfall in nuclear energy can be overcome. Mr. Emerson of Chase Manhattan Bank says that an increase in nuclear-power output to furnish close to 10 per cent of total U.S. energy needs is possible by 1980.

HYDROPOWER: THE OUTLOOK

Industry experts say that significant amounts of power can be developed from "pump-storage installations." In these, water is pumped up to storage at a site above a river or reservoir at hours when power demand is low. The water is released to generate "peaking" power at hours when electricity demand is greatest.

New designs for pump-storage plants to make them intrude less on the environment have been developed. It is hoped that these will be acceptable to conservationists.

This sort of compromise, along with measures to overcome technical and other problems that beset the energy industry, are seen as essential if U.S. is to meet its soaring needs for energy.

BEHIND THE GROWING ENERGY SHORTAGE—DEMAND FOR ALL FUELS IS SOARING . . . BUT SQUEEZE ON SOURCES IS TIGHTENING

Oil

Little increase expected from U.S. inland wells. Offshore drilling has been sharply curtailed by concern over oil spills. Oil from rich Alaskan finds will not be available in quantity for years. Worldwide tanker shortage may limit imports of oil for some time.

Natural gas

Worry over air pollution from other fuels has created heavy demand for clean-burning gas. And gas already is being burned faster than new sources can be found. Spot shortages are showing up around U.S.

Coal

Air-pollution controls rule out use of much U.S. coal. New federal laws on mine health and safety have shut down some mines. Export demand is booming. Shortages of coal-carrying rail cars are creating supply problems.

Hydroelectric power

Few sites remain for the big dams that produce hydropower cheaply. Conservationists seek to block use of many that are available.

Nuclear power

Production of energy from this promising source is running far behind expectations. Rising costs and environmental concerns are cited as major reason for this lag.

BRINGING ALASKA'S OIL TO MARKET—A 15-YEAR WAIT

Developing new sources of petroleum—from the time the search for oil begins in an area to the time it is brought to market—can be a long process. Alaska's North Slope, site of one of the richest strikes in history, is a case in point—

1958—North Slope of Alaska is first opened for leasing;

1958–64—Exploration by geologists and seismic crews, looking for sites suitable for drilling;

1964—First "wildcat" well drilled by Sinclair Oil Corporation. Result: a dry hole;

1966—Another "wildcat," drilled jointly by Atlantic Richfield and Humble Oil. Again, a dry hole;

1967—Atlantic and Humble start drilling another well, in April, at Prudhoe Bay. On December 19, drills hit promising formation, push on down to 12,005 feet;

1968—Independent oil consultants, on July 18, confirm discovery of a field holding 5 to 10 billion barrels of oil;

1968–70—Oil companies swarm across Prudhoe Bay area, put down 54 producing wells to tap the rich new pool.

Today—Oil wells have been capped, drilling of new wells is held up. Companies are waiting for start of construction of Trans-Alaska Pipeline, which will bring oil to continental U.S. Pipeline has been held up until Government is satisfied environment won't be spoiled.

Even if construction of pipeline starts this year, it will be 1973, at the earliest, before oil can flow from Alaska to the "lower 48" States. Thus it will have taken at least 15 years from the start of exploration to bring Alaska's new oil to market.

[From Time magazine, Aug. 31, 1970]

THE ENERGY SHORTAGE WORSENS

Incredible as it seems in the resource-rich U.S., this summer's discomfiting electric-power cutbacks are likely to be only a prelude to many more pervasive difficulties. Part of the industrial U.S. is running short of the main source of energy—coal, fuel oil and natural gas. Some forms of rationing have already been imposed, and more may be necessary if winter brings severe weather, strikes in crucial spots, pipeline breaks or new trouble in the Middle East. Though few, if any residential consumers may be asked to curtail their use of fuel or power, there is a possibility of factory closings.

The pinch is already affecting commerce and industry across wide segments of the East and Midwest. Last week the Tennessee Valley Authority disclosed that its normal 60-day stockpile of coal is down to a ten- to twelve-day supply overall, and to four days' worth at some of its thermal power plants. When the town of Braintree, Mass., sought bids recently for oil to run its generating plant for another year, none were submitted. Though there is plenty of natural gas available in the Southwest, the fuel has become so scarce on the East Coast that Elizabethtown (N.J.) Gas Co. is turning away all new commercial and industrial customers. East Ohio Gas Co., which serves Cleveland and adjacent industrial centers, has turned down orders from steel, chemical and rubber companies for 27 billion cu. ft. of gas. The company has also warned that a severe cold spell will cause a repetition of last winter's shortage, when local factories had to close temporarily to provide enough gas to heat homes, schools and hospitals.

THE ACUTE PHASE

The fossil-fuel shortage, warns Chairman John N. Nassakis of the Federal Power Commission, is "the most acute phase of our developing energy crisis." The problem is complicated in some areas by inadequate generating facilities and a lack of pipelines and power grids to carry gas and electricity to industrial centers. "Never before in peacetime have we faced such serious and widespread shortages of energy," says John Emerson, an economist and power expert for Chase Manhattan Bank. Many analysts believe the problems will be temporary, but some maintain that the energy gap may limit economic growth for years to come.

At the very least, the shortages mean that consumers will be forced to pay more for electricity and heat. In its first "inflation alert," the President's Council of Economic Advisers noted that prices of industrial fuel oil rose at an annual rate of 48% during the first half of 1970. Bituminous coal prices climbed at an annual rate of 56%. As a result, the TVA recently posted a 23% increase in its electric rates.

Incongruously, there is abundant fuel underground. The U.S. has at least 800 billion tons of coal still unmined, enough to last 1,600 years at present consumption rates. Proved reserves of natural gas have dwindled to an eleven-year supply, but the Potential Gas Committee, a study group sponsored by the industry, calculates that the total amount of gas in the U.S., including Alaska, is 1,227 trillion cu. ft., enough to maintain production well into the next century. That, of course, does not take into account the myriad problems of piping the gas to market, from satisfying environment concern to patrolling the pipelines—often by air—for possible leaks. Similarly, although proved oil reserves in the continental U.S. are down to an eight-year supply, oil is still abundant elsewhere.

The shortages are the result of managerial misjudgments, inept government regulation, antipollution pressures and supply difficulties in the Middle East. The main causes:

COAL

The industry began retrenching in the mid-1960s when utility companies, anticipating a much faster shift into nuclear power than has occurred, declined to sign long-term contracts for coal. Facing a diminished prospect for sales, mine operators did not develop their reserves. There is still little evidence that coalmen are scrambling to catch up. Testifying before a Senate subcommittee two weeks ago, TVA Power Manager James E. Watson reported that the companies "frankly say that they won't open a mine unless you guarantee them the kind of return they would get if they were selling gasoline." Inefficient use of freight cars has caused a snarl. About 10% of all U.S. coal is exported, and shippers often store outboard tonnage in rail cars at the ports. Reason: the demurrage charge of $5 a day per car (a figure set by the Government) is less than the cost of building storage facilities.

NATURAL GAS

Demand recently has soared because natural gas is the least pollutive of all fossil fuels. But exploration for new gas fields has declined sharply, partly because investors do not consider the rate of return worth the high risk. The industry, with 40,190,000 commercial, industrial, and residential customers, blames the Federal Power Commission for holding down the price of natural gas to protect consumers. In regulating the price of gas transported across state lines, the FPC provides producers with a return calculated at 12% a year on their investment. Wall Street analysts estimate the usual return at 8%, well below the normal 12% profit for oil.

FUEL OIL

The U.S. is greatly dependent on Venezuelan imports for its heavy heating oil for industrial and commercial use. Domestic supplies are small partly because proven fields yield oil that contains too much sulfur and partly because U.S. companies have found it more profitable to concentrate on higher-priced oils. Utility companies are switching to low-sulfur heating oil to comply with antipollution laws, thus putting an additional strain on available supplies. The main squeeze, however, comes from a global shortage of oil tankers, which has made it more expensive to ship the oil to the U.S. Producers

have been forced to send Middle East crude to Europe around the Cape of Good Hope ever since a bulldozer—by accident or design—severed the Trans-Arabian pipeline last spring. The Syrian government has so far refused to allow repairs.

Critics also accuse the U.S. oil industry of contributing to the energy scarcity by controversial—and perhaps monopolistic—practices. Oil companies in recent years have moved aggressively to acquire producers of competitive fuels. Only two of the ten largest U.S. coal companies remain independently owned; the other eight are owned either by oil firms, other mineral companies or large customers such as U.S. Steel. Two U.S. companies have 6 billion or more tons of coal reserves; one is owned by Humble Oil, the other by Continental Oil. The top 20 producers of natural gas are oil companies. In the Gulf of Mexico off Louisiana, where oil companies own 70% of the offshore leases, 517 producing gas wells have been shut off. Some consumer groups complain that the action is part of a concerted effort to pressure the FPC into raising gas prices.

The FPC, which is holding hearings this month on gas prices, no longer dismisses the argument that low prices have depressed natural-gas output. Two weeks ago, Chairman Nassikas called for "a regulatory framework that recognizes the law of supply and demand." On the other hand, utility commissioners from eight Eastern states have appealed to Interior Secretary Walter Hickel to force oilmen to develop their offshore Louisiana gas wells instead of letting them lie dormant.

Partly because soaring tanker rates have lifted the price of imported Middle East crude oil to as much as $4.50 per bbl., demand for domestic oil is increasing. Last week the Texas Railroad Commission, which regulates the oil output in the state, raised production ceilings for the second time in ten days, to virtually 100% of capacity.

WHAT CAN BE DONE?

Texas wells produce little industrial oil, however, and there is nothing that Washington could have done to prevent the shortage of heavy heating oil. For the next few months, the energy shortage seems bound to worsen, barring a return of tranquillity to the Middle East, repair of the Syrian pipeline break and a consequent freeing of tanker tonnage. Nuclear-power plants have been delayed by costs, safety concerns and opposition from environmental groups, and cannot be expected to fill much of the energy gap before the early 1980s. In the meantime, if the nation wants to ease the great shortage, it will have to make difficult choices.

Raising the output of electric power from coal, oil and gas will involve either more pollution or substantially higher costs—and perhaps both. To obtain more natural gas, the Government will probably allow producers a higher rate of return. If the construction of power plants and transmission lines is to be hastened, a multitude of local governments will have to sacrifice some of their authority. Oil in quantity from the rich Alaskan finds will not reach the market for years, even if the Government allows a prompt start on construction of the trans-Alaskan pipeline, which conservationists oppose. Some oilmen believe that a vast untapped pool of oil lies beneath the Atlantic shelf, but offshore drilling has lately been curtailed by concern over oil spills.

Above all, there is a plain need for a coherent national energy policy, balancing the interests of producers and consumers, ecologists and economic expansionists. In resolving those conflicts, the nation may also have to decide whether its energy resources ought to be dominated by a handful of companies.

BLOCK ISLAND POWER CO. MAY BUILD WIND-GENERATORS

Mr. GRAVEL. Mr. President, last month, Henry G. Hutchinson, president of the Block Island Power Co. in Rhode Island, stated that "There's a very real possibility" the company might use wind-generators on the island within a few years.

According to the Associated Press story which appeared November 8 in the New London, Conn., Day, Mr. Hutchinson said that six wind-generators might generate more than half of the islands' electric power. Apparently Mr. Hutchinson is waiting to see how much the utility may have to pay for oil before making his decision.

The president of Block Island's Town Council, Herbert Whitman, said:

We've got plenty of wind here; it's our cheapest commodity.

The demand for electricity on the island increases about 140 percent during the summer when the populaton rises to about 8,000 persons.

HUMAN RIGHTS ANNIVERSARY

Mr. PROXMIRE. Mr. President, this week we are celebrating the 25th anniversary of the proclamation of the U.N. Declaration on Human Rights. An excellent editorial appeared in the New York Times, commemorating the occasion. It points out quite rightly that no continent is immune from the problems of human rights. No nation can afford to disregard these fundamental issues since they are intertwined so closely with our hopes for world peace.

I ask unanimous consent that the New York Times editorial be printed in the RECORD.

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

HUMAN RIGHTS DAY

A quarter of a century ago most of the world's nations were climbing out of the ashes of war. Great dreams could be envisioned without cynicism; the Universal Declaration of Human Rights adopted by the U.N. General Assembly on Dec. 10, 1948, reached beyond questions of war or peace and into the soul of mankind.

Nothing in that great document is irrelevant today. It remains at the very core of the United Nations. It includes the right of freedom and justice; of movement within and beyond the borders of one's own country; of information, assembly and association; of health, education, work and well-being. It is a document that insists upon the right of human dignity without distinction of race or color or sex or birth or social origin.

These age-old longings and goals, assembled by an international parliament in the form of specific articles, have already achieved some beneficial results. The constitutions of many of the states that have come into existence in the last twenty-five years includes articles derived from the Universal Declaration.

In recent days the U.N.'s Third Committee has debated ways to implement the effective enjoyment of human rights enumerated in the Universal Declaration. An effort to create a post of High Commissioner for Human Rights has been deferred for a year; a Declaration on Freedom of Information has also been delayed. These and other alternative approaches for improving human rights and fundamental freedoms will be brought before the General Assembly in 1975.

It is not difficult to list the countries around the world where terrible indignities and violations of the Universal Declaration abound. No continent is immune. But the great document is there to be heeded, the United Nations still exists as a forum for firing the imagination, and men of goodwill are still striving to better the human condition.

NICHOLAS JOHNSON LEAVING FEDERAL SERVICE AFTER 10 YEARS

Mr. MOSS. Mr. President, on December 5, 1973, Nicholas Johnson left the Federal Government after more than 10 years of dedicated, staunchly independent, and fully committed service to his country. Beginning at the remarkably young age of 29, Nick was appointed Martime Administrator by Lyndon Johnson. He served with distinction in that capacity until 1966 when he was appointed to the Federal Communications Commission where he has served for the past 7½ years.

Rarely has a Federal administrative official shown such undiminished zeal and independence over a 10-year span of Government service. Rarely has a Federal commissioner so consistently and intelligently articulated the needs and interests of the public. Rarely has an official of Government so frequently shunned the cloaks of self-protective secrecy to bare the weaknesses and inadequacies of the Federal bureaucracy. Rarely has a Federal employee spoken with such revealing candor to House and Senate investigative and legislative committees.

In this age of turmoil when the integrity, independence, and commitment of public servants is so often questioned, the governmental life and times of Nicholas Johnson serve as a reminder that, with courage, Government officials can be responsive to the common weal.

A brief outline of Nick's life and accomplishments follows:

Nick was born in Iowa where he was involved in virtually every school sport and activity. He organized a student council in fourth grade; lobbied his city council for a swimming pool in junior high; was the only student elected student body president as a junior—and then reelected. The Iowa Bar Association voted him a citizenship prize. His fellow students elected him president of the Iowa Association of Student Councils. He served a 3-year term as national president of the 500,000-member UMCA high school organization—Hi-Y—the youngest member of the national YMCA Board of Directors, and its representative to the National Council of Churches organizations.

In college, at the University of Texas, Nick earned his Phi Beta Kappa key, and was an editor of his law review—while holding down part-time jobs to pay his way, and serving as a Democratic precinct chairman.

After graduating from law school, Nick held two of the law's most prestig-

ious jobs: Clerkships with U.S. Supreme Court Justice Hugo L. Black and U.S. Court of Appeals Chief Judge John R. Brown. Then, as a member of the University of California's outstanding law faculty, he took leave from teaching with Dean Acheson's Washington law firm, Covington & Burling.

Nick was one of President Lyndon B. Johnson's administrative appointments. At 29, Nick was the youngest Maritime Administrator since President Kennedy's father, Joseph P. Kennedy, in 1936. He had responsibility for about $500 million a year in merchant shipping and ship building programs, worldwide offices, and 2,500 employees. In addition, he had responsibility as Director of the War Shipping Administration, and carried three-star admiral rank—as he was also commandant of the Maritime Service and responsible for the 4-year Merchant Marine Academy at Kings Point.

At Maritime he also served the country well in foreign affairs. Nick was chairman of the powerful NATO Planning Board for Ocean Shipping. He worked with the 83-nation international communications satellite organization Intelsat. He directed the international tour of the world's only nuclear-power merchant ship, guiding kings of the Scandinavian nations about the ship as a part of our Atoms for Peace program. As the Vietnam war widened in 1966, Nick left the FMA.

At the Federal Communications Commission, many of Nick's views of the public interest, as contained in carefully drawn and blistering dissents, in his testimony before congressional committees and in speeches, articles and books he has written, have subsequently been adopted by the courts and are now the laws of the land. Nick has fought for lower telephone rates and improved service, for domestic satellite development, for cable television for public broadcasting, for responsible commercial practices, for less violent and more constructive children's programing, for more public service broadcasts, for employment practices in the broadcast industry which conform to equal employment opportunity laws, and for the needs and interests of women, minorities, and finally, for all persons throughout the country who rely upon broadcast services as their major source of news and information.

During his tenure on the Commission Nick authored two successful books—"How To Talk Back to Your Television Set" and "Test Pattern for Living"—which set forth many of his views about broadcasting, Federal regulatory agencies, governments, life, and the times.

In 1967, the U.S. Jaycees selected the Ten Outstanding Young Men of America. One was our colleague from Massachusetts, EDWARD M. KENNEDY. Another was FCC Commissioner Nick Johnson.

Later the New York Times reported college students were turning away from folk heroes like Jerry Rubin and Abbie Hoffman to more solid young leaders. One was Ralph Nader. The other was Nick Johnson. Then the New Republic selected them as the first winners of its coveted Public Defender Award.

Newsweek did a study of the persons most often sought for university presidencies. Four names surfaced: Former Attorney General Ramsey Clark, Common Cause Chairman John Gardner, Ford Foundation President McGeorge Bundy, and—Nick Johnson.

CONTROLLING COMPUTERS WITH CRIMINAL JUSTICE INFORMATION

Mr. ERVIN. Mr. President, two significant commentaries have appeared in print recently dealing with a subject of importance to all Americans—the collection and dissemination of raw arrest records to nonlaw enforcement agencies.

Massachusetts Gov. Francis Sargent, in a letter to the editor of the New York Times, which appeared on November 27, 1973, describes the dilemma faced by State governments in dealing with the NCIC—National Crime Information Center—the computer system established by the Justice Department which collects and disseminates, among other records, raw arrest data. Governor Sargent, in his letter, calls for Federal regulations in the form of legislation to prevent the misuse of the information collected by the NCIC. He emphasizes the urgent need to place restraints on the type of information collected and the recipients to which the information is disseminated. Massachusetts has refused to join the FBI's national computer system and has regulated its own State criminal justice information system. But, as Governor Sargent points out, State regulations are not enough. The Federal Government must act to place restrictions on the collection and dissemination of information in order to protect the individual's privacy. Out of this dilemma arises the question of whether the State can be penalized for refusing to join the Federal computer system, because the Federal system does not provide sufficient privacy safeguards.

A more lengthy analysis of this matter was prepared by Richard E. Cohen for the National Journal—October 27, 1973, volume 5, No. 43. Mr. Cohen describes computerized criminal history systems from their conception to present use, the type of information collected, computerized, and disseminated, as well as the goals of the system. Mr. Cohen's article is especially worthwhile in providing a detailed account of all aspects of NCIC and its effects. From Governor Sargent's letter and Richard Cohen's article, the need for Federal legislation is reinforced. By becoming better informed on this subject, it is my hope that all States will begin enacting legislation to curtail the dissemination of raw arrest records to nonlaw enforcement agencies and to provoke legislation on the Federal level to limit the use of computerized criminal information systems.

It is incumbent upon the Justice Department to propose comprehensive Federal legislation in this area. The Justice Department is required under legislation enacted by Congress this summer to issue regulations on the collection and dissemination of arrest records. It has been almost 5 months since that legislation was enacted and I am disappointed that no regulations have been formulated. I urge the Justice Department to publish the regulations it has prepared and to forward to Congress the draft bill which now sits on the Acting Attorney General's desk.

Mr. President, I ask unanimous consent that the articles 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 Times, Nov. 27, 1973]

TO GUARD CRIMINAL DATA: THE UNITED STATES MUST ACT

To the Editor:

I wish to commend the National Advisory Commission on Criminal Justice Standards' concerned with safeguarding computerized criminal data banks, as reported recently in The Times.

However, in its emphasis on the need to safeguard state criminal data banks, the commission missed much of the problem.

Many states, including Massachusetts, have already enacted strong protective legislation.

In Massachusetts, for example, only data on individuals convicted, not just arrested, are included. Only law enforcement agencies and agencies given specific statutory authority are allowed access to these files. Furthermore, individuals included are allowed to see their own files and correct them if they are wrong or incomplete.

With recent requirements added to the Law Enforcement Assistance Administration extension legislation mandating similar safeguards on the part of any state wishing to receive Federal funds to construct criminal data banks, I think most states will soon enact comparable controls.

The problem, then, is how to get the Federal Government to enact safeguards as strong as those of the states. Despite our laws in Massachusetts, for example, the moment we join the planned national system, connected through the F.B.I.'s National Crime Information Center (N.C.I.C.), our information flows from our computer and becomes available to anyone with access to any of the planned 45,000 separate N.C.I.C. computer terminals across the country.

There are inherent difficulties in such a national system. For example, although access is prohibited to credit bureaus and other noncriminal justice agencies in Massachusetts, we cannot restrict access to the same data available through terminals outside our borders. We cannot stop the flow of data in Massachusetts citizens from Military Intelligence, the Secret Service, the Post Office, Customs or the various other Federal agencies participating in the N.C.I.C.

For these reasons Massachusetts refused last June to join the N.C.I.C. until equivalent Federal safeguards are instituted.

The immediate response from the Federal Government was hardly encouraging. The Justice Department sued Massachusetts in Federal District Court to get us to open our files to it or any other Federal agency that wanted them.

Fortunately, this fall Attorney General Elliot Richardson ordered the Justice Department to drop the suit. Unfortunately, before he could address himself to safeguarding the N.C.I.C., he resigned.

To date the only time Congress has acted was to override a 1971 court ruling barring the F.B.I.'s dissemination of raw arrest records outside of law enforcement agencies. Congress immediately attached a rider to the Justice Department Appropriations Act to allow the F.B.I. to continue this practice.

Attempts to repeal this rider were defeated this session.

This is why, although I applaud the National Advisory Commission's concerns. I think its admonitions are misplaced. State controls are not enough.

The Justice Department must act. Congress must act.

FRANCIS W. SARGENT,
Governor of Massachusetts.

BOSTON, *November 14, 1973.*

[From the National Journal, Volume 5, No. 43, Oct. 27, 1973]

JUSTICE REPORT AND NIXON ADMINISTRATION WEIGHS RESTRICTIONS ON USE OF CRIMINAL HISTORY DATA BANKS

(By Richard E. Cohen)

Somewhere in the federal government, there is a file on you—perhaps dozens of them.

In this computer age, it is easy technologically to find out what is in those files. A tape whirs. A printer clatters. And, zap, the computer spews out what it knows about you: whether you have a criminal record, how much money you have in your social security account, or whatever information that happens to be stored in that particular data bank.

The process is so fast and simple that it has become a way of life in the 1970s. Thousands of times daily, federal computers spin out bits and pieces of knowledge about Americans who are looking for jobs, applying for grants or doing any number of other things that trigger an electronic search for skeletons in their closets.

Not everyone has access to those files. But with cold dispassion the computers hand up the information to the many public and privates offices that do have entry, such as federal and state agencies, defense contractors and federally insured banks.

Personal data banks have mushroomed so rapidly that no one knows how many there are. A Senate subcommittee recently counted 750 of them in federal agencies alone, and the enumerators regard that number as just the tip of the iceberg.

The proliferation of data banks, the widespread access to their contents and the awareness that their information is not always complete or correct have combined to arouse the concern of Members of Congress, civil libertarians and scholars among others.

To these persons, criminal history data banks are of particular concern because of their ability, rightly or wrongly, to destroy an individual's career.

As criminal justice data-gathering programs develop, it becomes less likely that a person's brush with the law will escape the computer's attention. The Federal Bureau of Investigation (FBI) estimates that its new automated data center, which now has 4.2 million criminal record entries, will contain 21.7 million within 10 years.

As the principal custodian of such files, the Justice Department is taking steps to clamp significant restrictions on their use, as well as the use of other federal and state data banks containing criminal history information.

The department is circulating tentative regulations and legislation that if adopted would affect many agencies and private companies that draw on criminal justice data banks.

Controversy: The Justice Department's move has touched off a debate within the Nixon Administration that could alter federal policy toward the regulation of all data banks, public and private.

At issue is the extent to which individual privacy is to be limited by a public "need to know" and the extent to which the government can collect and disseminate information about an individual without his consent.

The controversy has been sharpened by revelations of military surveillance of civilians and the various illegal events associated with the Watergate scandals. Several sets of congressional hearings during the past decade also have focused public attention on the issue.

Apart from its long-range effects, the debate within the Administration will provide a test of the Justice Department's ability to exert policy control over the traditionally independent FBI.

Agencies that have had access to FBI data banks in their day-to-day operations have met with Justice Department representatives, and have raised objections to portions of the draft bill.

A further element in the controversy is the role of state and local governments, which are prime suppliers of criminal data, and whether they can be penalized if they refuse to cooperate with federal programs for the exchange and collection of data.

In the absence of congressional action to thwart such episodes, there could be repetitions elsewhere of a recent skirmish in Massachusetts, which resulted in a federal retreat from what Gov. Francis W. Sargent, R. called "threats" by the Defense Department and the Small Business Administration to slash their Massachusetts programs if the state continued restricting their access to its data banks.

In addition, a recent report by an HEW Department citizens' advisory committee, proposing strict limitations on data bank use, has brought the issue to the notice of federal policy makers—partially because the recommendations have received support from HEW Secretary Caspar W. Weinberger and Elliot L. Richardson, who established the committee in 1972 while has was HEW Secretary. Richardson resigned as Attorney General on Oct. 20 and President Nixon named Solicitor General Robert H. Bork as acting Attorney General. (*See p. 1621.*)

Background: The current debate is the second round of the policy discussion of federal use and regulation of data banks.

Hearings—During the mid-1960s, congressional hearings gave publicity to the then-incipient use of federal computers.

These hearings "successfully squelched the nearly *fait accompli* of a 'national data center,'" said Norman G. Cornish, deputy staff director of the House Government Operations Subcommittee on Foreign Operations and Government Information and former staff director (1964–65) of the Special Subcommittee on the Invasion of Privacy, chaired by Rep. (1959–73) Cornelius E. Gallagher, D-N.J.

The aborted national data center had been proposed by officials of the Budget Bureau (now the Office of Management and Budget). The Gallagher hearings also resulted in the abandonment of psychological testing of federal employees by the Civil Service Commission, Cornish said.

Though these and subsequent investigatory hearings have accomplished short-term results, neither Congress nor the executive branch has established any comprehensive policy for governmentwide use of data banks. Thus, the increased sophistication in the past few years of federal computer technology has taken place on a relatively uncontrolled and uncoordinated basis.

The Senate Judiciary Subcommittee on Constitutional Rights, chaired by Sen. Sam J. Ervin Jr., D-N.C., has conducted a staff survey of the number of federal data banks, in connection with its study of the impact that computerized information systems can have on individuals. Through agency responses to its questionnaire, the subcommittee has identified more than 750 separate federal banks of data on individuals.

Lawrence M. Baskir, chief counsel and staff director of the subcommittee, said that the figure represents "perhaps a third or a half" of the systems in existence. He said that new systems are "growing like weeds, with little statutory justification."

Credit investigations—The principal congressional action to regulate data bank use was the 1970 passage of the Fair Credit Reporting Act (84 Stat 114), which forced credit bureaus and other consumer reporting agencies to adopt privacy safeguards in the evaluation of a consumer's credit standing and general reputation.

Sen. William Proxmire, D-Wis., who was a chief engineer of the law's enactment, held hearings this month in his Senate Banking, Housing and Urban Affairs Subcommittee on Consumer Credit on a bill he introduced to strengthen the 1970 law. The bill (S 2360) would add several provisions, including one giving consumers the right to inspect their credit files and obtain a written copy of the information.

Another provision would require anyone who takes adverse action against a consumer on the basis of the credit report to inform the consumer in writing of the specific reason for the adverse action.

Sheldon Feldman, the Federal Trade Commission's assistant director for special statutes, testified July 24 before the House Banking and Currency Subcommittee on Consumer Affairs in support of several changes in the act, which the FTC administers. Most of Feldman's recommendations are consistent with S 2360.

Government data banks—The July 1973 report of the HEW Secretary's Advisory Committee on Automated Personal Data Systems, *Records, Computers and the Rights of Citizens*, concluded:

"Even at the federal level there are few statutes that protect personal data in satistical reporting and research files from unintended administrative or investigative uses. The Census Act, the Public Health Service Act and the Social Security Act are notable exceptions. Otherwise, there is little to prevent anyone with enough time, money and perseverance (to say nothing of someone who can issue or obtain a subpoena) from gaining access to a wealth of information about identifiable participants in surveys and experiments. This should not, and need not, be the case."

Baskir of the Ervin subcommittee said that regulation of criminal justice data banks is the "most feasible" effort by Congress in the months ahead because the subject is "narrow enough and we're familiar with the issues."

Acting Attorney General Bork said Oct. 22 that he would carry forward Richardson's programs. Richardson's interest in regulating criminal justice data systems had been pushed along by two events outside his control:

The enactment of a 1972 Massachusetts statute on privacy, which already has caused a confrontation between Massachusetts authorities and the Justice Department over the use of criminal data;

A provision in the recently enacted Crime Control Act of 1973 (87 Stat. 197) prohibiting federal agencies from using, for purposes other than law enforcement, research or statistical information compiled by agencies funded by the Law Enforcement Assistance Administration (LEAA), except where authorized by statute, and also requiring procedures "reasonably designed to ensure that all information is kept current."

This law is the first clear expression of congressional intent that federally supported criminal justice agencies establish procedures to protect the confidentiality and completeness of their data.

Because these agencies provide most of the raw data for the FBI's National Crime Information Center (NCIC), the proviso also is an indirect invitation to the Justice Department

to set restrictions on the FBI's data-collection activities.

FBI DATA

The development by the FBI of a computerized criminal history (CCH) program within the NCIC has become the focal point of the national debate over the data bank, because it may supplant much of the current FBI manual identification system.

The CCH program also may challenge traditional state independence in the collection of criminal history data.

Concept: Although the CCH program was created in 1971, and still is only a small element of all criminal information systems on federal and state levels, it has stirred considerable congressional and state reaction because of its potentially broad government-wide dimensions and the resulting fear of misuse.

Search—The genesis for CCH was the July 1969 creation of Project SEARCH, an informal consortium of state governments funded by LEAA. The group's name is an acronym for "System for Electronic Analysis and Retrieval of Criminal Histories"; its goal was to demonstrate and evaluate the technical feasibility and operational utility of an interstate transfer of criminal history data.

While Project SEARCH has continued to provide reports on the use of telecommunications in law enforcement activities, it now plays no operational role in the development of the nationwide criminal data system. A July 1970 report of the Security and Privacy Committee of Project SEARCH, however, has provided one of the principal working papers in the use of such a system.

A key recommendation of the report was that "participating agencies should be instructed that their rights to direct access encompass only requests reasonably connected with their criminal justice responsibilities."

FBI—In late 1970, then Attorney General (1969–72) John N. Mitchell concluded, after a vigorous internal debate between LEAA and the FBI, that the FBI should take control of the SEARCH prototype and operate it as a part of NCIC, which already has been established for purposes such as cataloguing wanted persons, stolen securities and stolen automobiles.

"When it became clear in the fall of 1970 that the system was going to be a reality," said Lawrence Baskir of the constitutional rights subcommittee, "the FBI made a pitch to Mitchell that it ought to run the system. Although former LEAA Administrator (1971–73) Jerris Leonard argued that the states did not want to be part of a system operated by the FBI, given the choice between Leonard and Hoover (J. Edgar Hoover, who was FBI director from 1924 to 1972), Mitchell chose Hoover. The upshot was that the FBI was to run the whole show and the stages were reduced to operating cogs."

Goals—The original goal of the FBI was to have all 50 states in the CCH system by 1975. To date, only six states (Arizona, California, Florida, Illinois, New York and Pennsylvania) have joined, and "it's doubtful that the 1975 goal is attainable because the development is extremely complex," said Norman F. Stultz, chief of the NCIC section in the FBI's computer systems division.

Each state must satisfy three requirements before it can join the CCH system:

The state must maintain a centralized fingerprint identification bureau.

It must have a process for collecting the criminal history data.

It must have a computer capability.

LEAA provides much of the funding to meet these elements, Stultz said.

Operations: Standards for NCIC operation were the subject of considerable discussion during the Senate Judiciary Committee hearings last March into the ill-fated nomination of L. Patrick Gray III to be director of the FBI.

Sen. Charles McC. Mathias, Jr., R-Md., said at the time: "Despite the NCIC's national importance and the nationwide interest in its potential, there is in fact very little, if any, legislative base for it. We, in Congress, never really have set statutory standards for its development and for its operation, for the philosophy with which its activities are conducted, and the statutory base that does exist is a precomputer concept. . . . All of that is just really a pretty vague and misty area."

Gray—In responding to Mathias' concern, Gray referred to a 558-page NCIC operating manual as well as to a policy paper of the NCIC advisory policy board, composed primarily of state and local police chiefs. He said all computers "capable of interfacing directly with the NCIC computer" must be under the management of a criminal justice agency.

Also, Gray said, "Experience to date indicates that the security and confidentiality requirements as contained in the NCIC policy paper governing access to criminal history records are sufficiently stringent. . . ."

However, Gray acknowledged that the FBI "has no further control over the information once it leaves our possession," such as when it is given to another federal agency.

In response to a Mathias question regarding the key issue of whether NCIC safeguards ensure that arrest and disposition records are complete, Gray said:

"The arrest records of the FBI identification division, as well as those of many state and local identification bureaus, are replete with lengthy arrest records of long-time hoodlums and members of organized crime whose arrests never resulted in conviction. Many sex offenders of children are not prosecuted because parents of the victim do not want to subject the child to the traumatic experience of testifying. . . . To prohibit dissemination of such arrest records would be a disservice to the public upon whom they might prey again." (*For background on the FBI's new leadership see Vol. 5, No. 27, p. 988.*)

Stultz—NCIC chief Stultz said FBI policy, as is the case with its manual system of fingerprint files, is that "information is to be used only for criminal justice purposes except where permitted by federal or state statute or executive order." The conflict arises in determining what is "valid use outside criminal justice purposes," he said.

Currently, the quasi-governmental Postal Service and the following federal agencies have "on-line" access to NCIC:

Four divisions of the Treasury Department, including the Internal Revenue Service, Secret Service, Customs Bureau and the Bureau of Alcohol, Tobacco and Firearms;

The four military criminal investigating agencies;

The Justice Department.

In addition, Stultz said, "many agencies" have access to records in the manual division. He was unable to give a precise figure.

Stultz also echoed Gray's testimony that NCIC is a "user's system" in the sense that "the central file is an amplified index of state systems, which the states can modify and update." The information is made available to other states, he said, in accordance with policy set by the NCIC advisory policy board, whose members are appointed by the users.

The board's policy statement says, "The justification for a national index is to efficiently and effectively coordinate 50 state systems for offender criminal history exchange. The need is to identify the interstate mobile offender."

Baskir disputed the FBI's statement that NCIC is a "user's system."

"It's a user's system but the FBI sets the rules," he said. "The demands of uniformity suggest a unified system, and while there is a strong reason to resist centralization, it's difficult to do because there are 51 interests (the FBI and the states), each having its own complex of forces."

GAO criticism—In a Jan. 16, 1973, report, the General Accounting Office (GAO) reviewed the history of NCIC and concluded that "the cost to develop and operate the criminal history exchange system has not been determined . . . (and) . . . sound financial management of a project of this magnitude requires at least an estimate of the costs of the project."

The GAO report referred to unidentified LEAA and state officials' statements that a fully operational system could cost at least $100 million.

FBI and LEAA officials agreed that there is no official estimate of either initial or on-going NCIC costs. The FBI has requested $7.8 million to operate NCIC this fiscal year.

Stultz said he had "no idea" whether the $100-million figure was reasonable but stressed that the FBI "intends to complement the states, not replace them."

George Hall, acting assistant administrator of LEAA's National Criminal Justice Information and Status Service, said, "We are now trying to shed some light on what will be the total cost of NCIC, but the question of the cost of an automated system is not the proper question to ask because some of the components of the system are already authorized for other purposes."

State legislation: Three states—Massachusetts, Alaska and Iowa—have set limits on the use of criminal history records concerning their own citizens. Massachusetts and Alaska adopted statutes based on a model state act developed by Project SEARCH, and the Iowa legislature formulated its own standards. The Alaska and Iowa laws, passed this year, have not yet caused serious federal challenges. But the 1972 Massachusetts law resulted in a confrontation with the Justice Department.

Massachusetts—The Massachusetts statute sets procedures for use and access to individual criminal history records, permitting such records to be disseminated only to criminal justice agencies, except where authorized by statute. In the first seven months of 1973, 72 requests from public and private groups for access to the records were turned down by the state's criminal history systems board. Among those turned down were the Defense Department, Coast Guard, Postal Service and Federal Aviation Administration.

Gov. Sargent said at an Aug. 3 press conference that the Small Business Administration (SBA) has threatened to withhold $30 million in loans and direct aid, and that the Defense Department's Defense Investigative Service has frozen 2,400 jobs in Massachusetts unless the state ties into the NCIC system.

U.S. suit—The most direct challenge to the Massachusetts law was the filing of a suit by James N. Gabriel, U.S. attorney in Massachusetts, contesting the state's limiting access to state criminal history information. The suit, which Gabriel filed June 8, was brought on behalf of SBA and the Defense Department.

At the Aug. 3 press conference, Sargent said: "My concern is locally oriented. We are being penalized and bullied to join a system even though the safeguards are not there."

David P. Heilner, SBA regional director, said:

"We understand what Massachusetts is trying to do, but we're trying to find ways to help people start businesses. We can't help unless we're convinced the man is rehabilitated. Our inability to have access to criminal history files will inhibit us because if Washington asks us to check out a criminal record and we can't get the information, then we can't make the loan."

Soon after he took office, Richardson ordered a review of the Masachusetts suit. The result was that William D. Ruckelshaus, then deputy attorney general, announced Sept. 25 in Boston that he and Gabriel had decided to dismiss the suit, concluding that "it would be more practical, more appropriate and more effective for the affected federal agencies to seek congressional authorization for such access."

Before he left office, Ruckelshaus said the suit was dropped because: "We didn't think we could win in telling a state how to use its information, and the Attorney General has shown a lot of sensitivity to this problem."

Asked why the suit initially was filed, Ruckelshaus said, "There is some question of whether there was an adequate exchange of information between the U.S. attorney's office in Boston and Washington."

CONTROLS

In an effort to deal with the many-faceted problems related to the use of criminal justice data banks, Richardson announced Aug. 3 that LEAA would draft regulations for protection of information in LEAA-funded criminal data systems, and that a Justice Department task force would prepare legislation dealing with security and privacy aspects of all criminal justice information systems.

Martin B. Danziger, an associate deputy attorney general who has been assigned overall department supervision of the two projects, said that Richardson was reacting to several factors, including recently enacted federal and state legislation, the access issue raised by the "Bible rider" (*see box, p. 1605*), a petition for the promulgation of NCIC rules initiated by several political figures and "his own personal interest."

Ruckelshaus, who resigned from the Justice Department at the same time as Richardson, said in an interview before he resigned that the department is trying to guard against "misuse of information."

The administrative regulations are being prepared by LEAA in cooperation with the FBI and must be approved by the Attorney General. The department expects to issue a notice of rule making within a month so that it can get reaction from other agencies and the public.

A draft of the legislation was sent at the end of September to the Office of Management and Budget (OMB), which then circulated it to affected agencies.

Following the initial comments, the bill has been redrafted and again circulated. Both Danziger and OMB officials predict that an Administration bill will be sent to the Congress this session.

Regulations: The effort to develop regulations is the direct result of an amendment to the 1973 Crime Control Act, which extends LEAA authority.

An amendment to that act, cosponsored by Sens. Edwards M. Kennedy, D-Mass., and John L. McClellan, D-Ark., prohibits the use of LEAA-financed research or statistical information for non-law enforcement purposes, and requires that "criminal history information collected, stored or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein."

Thomas M. Sussman, chief counsel to Kennedy's Judiciary Subcommittee on Administrative Practice and Procedure, said the amendment's supporters realized that regulating the LEAA-financed state systems was a "backdoor" approach to solution of the NCIC problem. But he said the amendment was, in part, an effort to show the Justice Department that there is broad support of NCIC regulation in the Senate Judiciary Committee so that it can see "the handwriting on the wall." (McClellan is chairman of the committee's Subcommittee on Criminal Laws.)

The department also is responding to an Aug. 3 petition from Gov. Sargent; Sens. Edward W. Brooke, R-Mass., and Harold E. Hughes, D-Iowa; Reps. Michael J. Harrington, D-Mass., and Barry M. Goldwater Jr., R-Calif., and several private groups, asking that the Attorney General develop standards for CCH operation.

Sarah C. Carey, who has coordinated the legal action as an attorney for the Lawyers' Committee for Civil Rights Under Law, said, "There are presently no controls or formal regulations, only informal regulations on CCH."

Joint process—In a Sept. 10 letter to Kennedy, Richardson said that LEAA and the FBI would issue the regulations jointly within a "few weeks." He added:

"While this cooperative effort takes a bit more time, the end result should be a comprehensive set of regulations governing all aspects of the NCIC system."

Mary C. Lawton, associate deputy attorney general (Office of Legal Counsel), is assisting in the coordination of the LEAA and FBI regulations. She said, "The process has been a whole lot easier than I thought, because the FBI is aware that a bill is being drafted imposing controls on NCIC, and that the regulations must be consistent with the bill.

"The FBI has lost whatever policy fight it was going to make. The new rules will supplant and differ from the old ones. The problem with NCIC is that its only remedy to bring states in line is to kick them out; this is self-defeating."

George Hall, who is the LEAA official most actively involved in the drafting of the regulations, said, "NCIC will continue to be a user's system; setting parameters does not make it less so. Most of the concern in the regulations relates to use of criminal history data outside the criminal justice system."

Stultz of the FBI said he expects that the regulations will be "consistent" with the present NCIC policy. He added that the problem with including criminal dispositions in record keeping is that "the courts and correctional institutions don't have computer capability" and that there is a need for mandatory reporting.

Sample draft—One of several drafts of the regulations, described by a Senate staff aide, who did not want to be identified, as "similar in intent to what the Kennedy-McClellan supporters" were expecting, mandates the regulation of the collection, dissemination and use of criminal justice information in each state by a central committee and limits access to law enforcement agencies specifically authorized to obtain such access, except where otherwise provided by federal or state statute.

The draft regulations make a distinction between "criminal offender records" and "criminal intelligence." Criminal intelligence generally is not public information and relates to data collected in investigations. In the draft made available to *NJR*, access to criminal intelligence information systems would be more strictly regulated than would access to criminal offender records.

Legislation: The preparation of a bill to regulate the exchange of criminal justice information is not a new process for the Justice Department. It is likely, however, that the contents of any bill it sends to Congress this year will be significantly different from its predecessors.

In 1971, Sen. Roman L. Hruska, R-Neb., introduced S. 2546, a Justice Department bill that would have given the Attorney General the power to determine which agencies may have access to criminal justice information. A similar proposal was about to be sent to the Congress this spring, with OMB approval, before the April 30 resignation of former Attorney General (1972–73) Richard G. Kleindienst.

Task force.—Shortly after he took office May 25, Richardson appointed a task force on security and privacy, headed by Jerry Clark, an attorney in the Office of Criminal Justice, which is directed by Danziger. Clark said that "Richardson felt the previous bill needed changes" and that the HEW report (*see box, pages 1602–03*) was one of the key reference points for the task force.

Ms. Lawton of the Office of Legal Counsel said the bill will regulate all federal criminal justice data banks, including those not under the direct supervision of the Justice Department, and would affect, for example, agencies such as the Defense Department and Civil Service Commission, which now rely on these data banks for criminal investigations and security clearances.

OMB—The Richardson-approved bill was sent during the last days of September to OMB, which then referred the bill to several agencies for comment. William V. Skidmore, a branch chief in OMB's legislative reference division, chaired a meeting Oct. 5 during which the bill was discussed among interested agencies. Following the meeting, Danziger said:

"I am very hopeful that we can resolve the conflicts in terms of getting an Administration bill."

In an earlier interview, Wilfred H. Rommel, OMB assistant director for legislative reference, said:

"A lot of work must be done with the bill because many agencies have something to say about it. There is a lot of pressure from the Hill for the Administration to produce a bill this year, and OMB hopes to have something before Congress adjourns."

Agencies: Ms. Lawton predicted in September that when OMB sends the bill to the agencies, "You'll hear the screams."

Although OMB regulations prohibit public comment by agency officials about legislative proposals being drafted, a sampling of opinion lends some credence to her prediction. However, it is apparent that other agency officials recognize an element of inevitability to Administration support of the Justice Department bill.

David B. H. Martin, special assistant to the HEW Secretary and executive director of the HEW privacy report, said the Oct. 5 meeting was "long, discursive and productive; there is a spirit of getting a meaningful bill as soon as possible."

A principal issue during the meeting, Martin said, was that some agencies felt the bill "goes too far" in making it necessary for agencies to get special legislation to revive access to criminal offender records for non-criminal justice purposes. "Not everyone is enchanted with that" and "resistance to changing what's been done for years" is a big obstacle, Martin said.

Treasury—The Treasury Department earlier this year implemented the Treasury Enforcement Communications System (TECS), a criminal records system used by the Internal Revenue Service, Secret Service, Customs Bureau and the Bureau of Alcohol, Tobacco and Firearms. The Justice Department bill likely would regulate TECS, said Brent Moody, deputy assistant secretary (enforcement) of Treasury.

"Although there has been no abuse of today's data banks, more attention is rightfully being paid to the issues of access," Moody said. "There is a need to implement some protections after due deliberations without restricting the operational capability of the systems. We will be cooperative in that type of effort, taking into account our diverse responsibilities, including the protective responsibility of the Secret Service."

SBA—J. Gregory Austin, general counsel of the Small Business Administration, said several agencies, including SBA, need access to good information, for purposes such as determining the grant-worthiness of loan applicants. "The taxpayers would be upset if

they felt we were giving grants to an embezzler or member of the Mafia," Austin said.

He said "it is possible under new Justice Department regulations that we would be forced to withhold money" and that some of the positions being advocated within the Administration "may be a bit emotional in terms of 'Big Brotherism.'"

Civil Service—A top staff official of the Civil Service Commission, who did not want to be identified, said the proposed legislation "would put some change in our operations, and I am prepared to defend the need of the commission's getting the fullest practical information bearing on a person's ability to do the job.

"If we don't have the information, this might have a bearing on whether a person is employable for certain jobs. For example, a rule prohibiting arrest records without dispositions would inhibit us because there are all sorts of reasons why a case may be dropped prior to conviction that Civil Service wants to know about."

Defense—According to participants, David O. Cooke, deputy assistant secretary of Defense for administration, has participated in data bank discussions on behalf of the Pentagon. He was not available for comment.

CONGRESS

Assuming an Administration bill is sent to the Congress, it likely would be referred to two subcommittees whose chairmen have been among the Members of Congress most outspoken in arguing for the protection of personal privacy and the confidentiality of records. The two are Sen. Ervin, chairman of the constitutional rights subcommittee, and Rep. Don Edwards, D-Calif., chairman of the House Judiciary Subcommittee on Civil Rights and Constitutional Rights.

Other Members, representing all segments of the political spectrum, have developed an interest in regulation of data banks, with the result that more than two dozen bills have been introduced this year concerning the general subject of privacy and data banks.

Ervin: Because of his time-consuming responsibilities as chairman of the Senate Select Committee on Presidential Campaign Activities, Ervin has been unable to devote as much time to the activities of the constitutional rights subcommittee as he has in recent years.

However, he discussed the issue of access to criminal justice data banks in a June 28 speech at Miami (Ohio) University when he said that arrest records "should be available only to those criminal justice agencies which can demonstrate that they need such arrest and disposition records in order to carry out their law enforcement duties. Other organizations, businesses and the like should have no access to this kind of information, which can be so damaging to the lives and liberties of innocent citizens."

The subcommittee staff has prepared a bill, still being reviewed, which chief counsel Baskir said will serve as an "outer limit" on the boundaries of privacy to balance what he believes will be the "law enforcement systems approach" of the Administration bill. He said he hopes there will be hearings on the legislation next spring.

Edwards: Hearings began Sept. 26 in Edwards' subcommittee on his bill (HR 9783) to regulate the use of federal criminal data banks. In an opening statement, he said:

"We can no longer assume the necessary precautions for the security and privacy of our citizens will be observed without Congress exercising its responsibility to legislate parameters for the operation of these computer data banks."

In an interview, Edwards acknowledged that "we need the support of the Justice Department to pass a bill that means anything." He said the Massachusetts action and HEW study signal some "change in attitude" by parts of the executive branch.

Edwards also said "extradordinary care" should be exercised before any employer is provided information from a criminal justice data system because "many fine people, often minorities, have been treated unfairly."

Goldwater: A bill (HR 10042) introduced by Rep. Goldwater would regulate use of and access to all data banks, public and private. The aim of the legislation, he said, is preventive. "All we're going to do is open up computers so that those who have responsibilities will be aware of the privacy concern; we don't want to impair the growth of technology."

He said there is "little policy difference between regulation of public and business data banks." While it would be preferable, Goldwater said, if the regulation were to be done voluntarily, "I don't see the trend there."

He said his principal concern was to eliminate the citizen's fear of "bigness." Goldwater criticized some Members for supporting privacy legislation because they are "anti-law enforcement and anti-military."

Koch: One Member to whom Goldwater specifically referred was Rep. Edward I. Koch, D-N.Y., who has introduced H.R. 9786, a bill that would establish a Federal Privacy Board to monitor the operation of public and private data banks.

Koch said regulation of data banks is "too big a monster to deal with in a piecemeal fashion." The bill would establish general guidelines that the board would implement on an agency-by-agency basis.

He said that "the time is right" for legislation because people are "fed up with the invasion of privacy by government."

OUTLOOK

The increasing federal presence in law enforcement activities, fostered in part by the growth of state-operated, LEAA-funded programs, has increased the likelihood of broad federal guidelines on the use of criminal justice data banks. This policy formulation may have an effect in the private sector as well as in government.

Ms. Lawton of the Justice Department said that "we're trying to leave the federal-state balance alone" in preparing new regulations and legislation. But she conceded that a federal statute would change the relationship and give the federal government an opportunity to "reach" farther.

How far that reach will extend and how strong an impact it will have will be determined, in large part, by the position put forth in the bill being prepared by the Administration with the Justice Department's leadership.

Paul L. Woodard, former LEAA general counsel and now a consultant for Project SEARCH, said that because some departments traditionally have opposed similar proposals to regulate the use of data banks "there will be a lot of problems in getting a meaningful bill."

AN HEW ADVISORY UNIT PROPOSES A CODE OF FAIR PRACTICE—TO DEAL WITH THE "BIG BROTHERISM" PROBLEM OF DATA BANKS

The HEW Department's Advisory Committee on Automated Personal Data Systems showed no fear of biting off more than it could chew.

What began last year as a narrow study of the use of social security numbers—which HEW assigns—ended up recently as a broad blueprint for addressing the social implications of computer technology in the hands of public as well as private users.

The committee's executive director, David B. H. Martin, said that because the membership of the committee was broad based, "we hope we have managed to isolate issues that need to be addressed across the board."

Martin, special assistant to the HEW Secretary, is moving to Justice where he will head an office dealing with government information policy. He has been an aide to Elliot L. Richardson, who resigned Oct. 20 as Attorney General, in several capacities.

Background: Richardson established the advisory committee in February 1972, while he was HEW Secretary, after receiving the report of a social security task force headed by former Commissioner (1962-73) Robert M. Ball of the Social Security Administration.

Martin said that the task force, which had studied the use of the social security number as an identifier, concluded that there was a need for consideration of broader issues, including harmful consequences that may result from using automated personal data systems, and safeguards that might protect against potentially broad consequences.

The 25-member committee included computer managers and operators, public and private administrators, legislators and academicians. Its chairman was Willis H. Ware, a computer scientist on the corporate research staff of the Rand Corp. In nine meetings during its year-long existence, the committee heard more than 100 witnesses.

In its report of July 31, 1973, the committee recommended that Congress approve legislation to establish a "Code of Fair Information Practice" for all automated personal data systems. The report discussed cultural ramifications of computer-based record keeping, with particular attention to threats to privacy, and also recommended limitations on use of the social security number.

Concerns: J. Taylor DeWeese, a committee member who is an attorney with the Philadelphia firm of Dilworth, Taxson, Kalish, Levy and Coleman, said the report was "very worthwhile" because it brought together persons of broad backgrounds who engaged in "vigorous debate reflecting their constituencies." DeWeese said it was "unfortunate" that the report contains no description of the extent of data banks and how they are used.

"Our hearings include much good description, but it's buried in the transcript of the hearings," he said. "A fantastic amount of data is being collected with very few controls. There is a marked lack of knowledge by managers of the systems of what they include, how they are being used and who has access."

Another committee member, Guy H. Dobbs, vice president for technical development of computer services of Xerox Corp. in Santa Monica, Calif., said that the committee's report commended "as much as is realistically accomplishable in a legislative sense."

He expressed concern that "policy makers do not appreciate the impact of technology on individual lives," in part, because "our culture and contemporary management of technology is oriented toward technical progress making it difficult for policy makers to appreciate the implications of progress."

Dobbs said the implementation of the committee's recommendations would result in a 5- to 10-per cent increase in cost, primarily for administrative expenses. "This is modest in terms of the possible return in protections to the public," he said.

The purpose of the committee, Dobbs said, was two-fold:

To educate the public and policy makers;

To recommend approaches to satisfy the legislative interest in establishing safeguards.

Recommendations: Executive director Martin said the committee's proposed Code of Fair Information Practice is intended to serve as a "least common denominator" and that several codes are likely to evolve in specialized areas of application. He cited the Fair Credit Reporting Act (84 Stat. 114) as a code already in existence.

The basic elements the committee addressed, he said, are secrecy, right of access, opportunity to view and contest the data and a right to contest the use of the data.

Public notice—The committee recommended that any organization having an automated personal data systems for administrative purposes should give annual public notice of its existence and character.

Before a new system is established or an existing system enlarged, the committee said, the organization should give individuals who may be affected by its operation "a reasonable opportunity to comment." The public notice would include information about the purpose of the system, the categories of persons on whom data are to be maintained, the categories of data to be maintained, the sources of data, the use to be made of the data, procedural safeguards and the name and address of the person immediately responsible for the system.

Access to system—Of particular concern to the committee was a uniform policy for the security of data systems and who may use them.

Its report stated:

"If organizations maintaining personal data systems are left to decide for themselves when and to what extent to adhere fully to the safeguard requirements, the aim of establishing by law a basic code of fair information practice will be frustrated."

Among the recommendations to deal with this concern were:

There shall be no transfer to another organization of individually identifiable personal data that is not maintained in an automated personal data system "without the prior informed consent of the individual to whom the data pertain."

With respect to data already in an automated system, there shall be no transfer of data to another system—except where the individual requests such transfer—unless the organization specifies requirements for security of the data, including limitations on access to it, and determines "that the conditions of the transfer provide substantial assurance that those requirements and limitations will be observed."

The organization shall "take affirmative action" to inform affected employees—those "having any responsibility or function" in any aspect of the system or the use of data it contains—about the safeguard requirements and the rules designed to assure compliance with them.

A complete record of every access and use of any data in the system shall be kept, including the identity of all persons and organizations to which access has been given.

The data shall be as accurate, complete, timely, and pertinent as is necessary to assure accuracy and fairness in determination of any individual's qualifications and opportunities.

Rights of data subjects—The committee recommended giving individuals the right to take affirmative action concerning the accuracy, use and access to information about themselves.

Among the proposed rights are:

The right to be informed whether the data being requested is required legally and the known consequences of providing or not providing the data;

The right of full access to data in the system about one's self in a form comprehensible to him;

The individual's right to be informed about the uses made of data about him, including the identity of all persons and organizations involved, and their relations with the system;

The maintenance of procedures that allow an individual to contest the accuracy, completeness, pertinence and necessity for retaining data about himself and that permit such data to be corrected or amended when the individual so requests. In the event of a disagreement, "the individual's claim should be noted and included in any subsequent disclosure or dissemination of the disputed data," the committee said.

Social security number—The committee recommended that the social security number (SSN) not be made a universal identifier, and that it be used only "for carrying out requirements imposed by the federal government" through a specific legislative mandate.

In all other instances, the report said an individual should not be coerced into providing his SSN, nor should his SSN be used without his consent. The committee also recommended legislation to prohibit use of the SSN for promotional or commercial purposes.

Reaction: Preliminary reaction to the report, which was circulated widely among federal officials, generally has been favorable. Martin said that comments he has received "indicate that people know it's an important problem."

In releasing the advisory committee report, HEW Secretary Caspar W. Weinberger said that "the basic conclusions that the committee has reached are certainly sound" and that an individual should have the right "to know what is in the system about him and not to allow it to be disseminated to other systems without his specific permission. . . ."

Former Attorney General Richardson said determining limits on record keeping "cannot be left exclusively to those who design and apply the technology."

". . . We must make sure," he said, "that the uses made of records about people do not themselves have consequences that are inimical to social values and basic qualities of life that we have long sought to protect."

Sen. Sam J. Ervin Jr., D-N.C., chairman of the Senate Judiciary Subcommittee on Constitutional Rights, which has conducted an extensive study on federal data banks and the Bill of Rights, said the report's principles "provide a sound basis upon which to design safeguards against the misuse of personal data systems." But Ervin expressed concern that the report's "least-common-denominator" approach will result in "the maximum protection actually available to citizens."

Rep. Barry M. Goldwater Jr., R-Calif., saying that "there is not now a satisfactory legal framework to protect our citizens" from indiscriminate use of data, has introduced H.R. 10042, a bill to establish a Code of Fair Personal Information Practice, which is analogous to the one proposed in the HEW committee's report.

Outlook: Lawrence M. Baskir, chief counsel and staff director of Ervin's constitutional rights subcommittee, called the committee's report "a major step" in recognition of the privacy problem because "it not only deals with HEW, but speaks to the entire executive branch."

Executive director Martin said the committee's intention was to "develop a climate" for the evolution of standards on the operation of data bank systems and that, "to the extent other agencies don't react after reading the report in order to make real its recommendations, then it seems to me Congress could undertake to do so."

But Charles C. Joyce Jr., assistant director for government communications of the Office of Telecommunications Policy, said that "because the HEW report did not make a convincing case that we are facing a crisis," it might be better for the Congress to set ground rules on individual records and hold the agencies responsible for enforcement.

THE ISSUE OF ACCESS TO FBI ARREST DATA

The first significant limitations on the distribution of data in FBI files were imposed by Judge Gerhard A. Gesell of the U.S. District Court for the District of Columbia in *Menard v. Mitchell*. His June 15, 1971, ruling set off legislative actions that have diminished somewhat its impact.

As its statutory justification for the collection and exchange of arrest and fingerprint data, the FBI continually has cited 28 USC 534, passed in 1930, which gives the Attorney General power to collect criminal identification records and exchange them "with and for the official use of authorized officials of the federal government, the states, cities and penal and other institutions."

Decision: Responding to the challenge to halt dissemination of arrest and fingerprint data in the FBI manual file, Gesell prohibited the circulation of arrest records outside the federal government for employment or licensing checks and said it was "beyond reason" that Congress intended that a local ordinance or statute authorized a prospective public or private employer to receive fingerprint or arrest information.

Noting that "systematic recordation and dissemination of information about individual citizens is a form of surveillance and control which may easily inhibit freedom to speak, to work and to move about in this land." Gesell said the FBI data system is "out of effective control" and that "the bureau needs legislative guidance and there must be a national policy developed in this area which will have built into it adequate sanctions and administrative safeguards."

Bible rider: Six months later, Congress inserted a provision in the Supplemental Appropriations Act of 1972 (85 Stat 627) giving the FBI authority until June 30, 1972, to exchange criminal record information with federally chartered or insured banks, and authorized state and local public agencies to check the records for employment or licensing purposes.

Sen. Alan Bible, D-Nev., the sponsor of the amendment, said that the termination of service resulting from the *Menard* decision was "completely unacceptable. The FBI," he said, "is the only agency able to provide centralized criminal records services." Bible's amendment was accepted without Senate debate.

When a similar provision was attached to the fiscal 1973 appropriations bill for the Justice Department, the Senate accepted an amendment to the so-called "Bible rider" offered by Sen. Sam J. Ervin Jr., D-N.C., forbidding disseminations of the FBI records unless the record shows that the person pleaded guilty, *nolo contendere*, or was convicted. Ervin said that the FBI should be required to show a guilty disposition of the offense—if there was one—because "dissemination of information, mere arrest, without any follow-up as to whether there was a conviction, has caused great difficulty to many Americans."

However, the conference committee deleted the Ervin amendment and also added the word "hereafter" to the original Bible rider to give it permanent status. Ervin and Rep. Don Edwards, D-Calif., objected to the action, saying that this was a legislative action that should be considered by the Judiciary Committees of the Senate and House. But they did not move to vote against the conference committee action.

When the 1974 Justice appropriations bill (HR 8916) was considered in the Senate Sept. 17, it included the original Bible rider with the Ervin amendment. The issue will be resolved by a conference committee.

House—Jay B. Howe, staff assistant to the House Appropriations Subcommittee on State, Justice, Commerce and the Judiciary, said that the subcommittee did not consider the "Bible rider" issue this year because the word "hereafter" in last year's bill made the amended rider permanent legislation. Howe said that further action on the issue is "something the Judiciary Committees will have to settle."

In an interview, Rep. Edwards said he did not raise the issue when the Justice Department appropriations bill passed the House June 29 because House Parliamentarian Lewis

Deschler had informed him that, due to the addition of "hereafter" in last year's bill, any further action would be improper "legislation in an appropriations bill."

COULD WE ENJOY SOLAR ENERGY IN THE 1970'S?

Mr. GRAVEL. Mr. President, good news is always welcome, and good news about energy and the environment is particularly welcome. Therefore, I think my colleagues will appreciate a paper about solar energy issued recently by the Committee for Nuclear Responsibility, P.O. Box 2329, Dublin, Calif. 94566.

Mr. President, I ask unanimous consent that major excerpts from the paper, entitled "Solar Energy—How Soon?" be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. GRAVEL. Mr. President, the argument is persuasively made by the paper's author, Egan O'Connor, that this country could start enjoying significant amounts of safe electric power and clean fuels from solar energy in the 1970's, if Government and industry would just finance and market solar energy as aggressively as they finance and market nuclear fission.

THE BURDEN OF PROOF

I think the burden of proof lies heavily with anyone who denies that thesis, for no one denies that today there are operating solar energy devices which heat buildings, produce electric power, and make methane, hydrogen, and even oil.

Furthermore, no one denies that there is enough clean, constantly renewed solar energy to meet all our conceivable energy needs, both electric and nonelectric. Each year, the Earth's surface receives about 3,600 quintillion British thermal units of solar energy; this compares with year-2000 projected energy requirements for everyone on Earth of 10 quintillion British thermal units per year. I am certainly not suggesting, however, that one species deserves to usurp and degrade a quarter of 1 percent of the planet's energy. Undoubtedly man could reduce the growth of his per capita energy consumption by insisting on more efficient use of energy.

A year ago, the National Science Foundation announced—

> There are no technical barriers to wide application of solar energy to meet U.S. needs . . . Solar energy utilization on a large scale could have a minimal impact on the environment if properly planned.

Meanwhile, first-rate chemists, engineers, and biologists keep assuring us that the use of solar energy is thermodynamically sound and that man can get more energy out of solar power systems than it takes to build and operate them.

For these several reasons, I think the burden of proof lies with people who challenge Ms. O'Connor's thesis:

> If this country were really determined to introduce solar energy in the 1970's, it could be done.

NET ENERGY GAINS: NUCLEAR AND SOLAR

The question of net energy gain is, of course, basic. It would only increase our energy problem to invest in energy systems which fall apart or wear out before they produce at least a little more energy than we spent to build and operate them.

It is worth asking how long it will take before the civilian nuclear power program, which began in 1954 and represents a Government and private investment of at least $45 billion, will provide a net energy gain for this country. Into that calculation must go the energy required to reclaim land stripped for coal to enrich uranium, a share of the Government's giant fuel enrichment plants, the energy to build and operate Government monitoring systems for radioactivity, the energy spent to study the effects of radioactive poisons, and the energy to entomb each radioactive powerplant after its 30-year lifespan; radioactive materials cannot be recycled when the equipment becomes worn or obsolete.

We ought to know something about net energy gains before we let the Atomic Energy Commission invest another $5-billion worth of human and other energy to produce a few small breeder demonstration plants in the 1980's. If this country is looking for energy in a hurry, is that the way to go?

Perhaps we could enjoy a net energy gain faster from solar energy, despite its handicap of long-time neglect.

The November 26 San Francisco Chronicle reports that, according to Dr. Robert Inman, of the Stanford Research Institute, the natural conversion of solar energy by sunflowers, sugarcane, and other plants into carbohydrates, which are easily convertible into clean fuels like methane, could yield us up to 500 times more energy than the energy required to harvest the plant.

It should be noted that when plants are converted into methane gas, the remaining sludge is a fertilizer which can return the original nutrients to the soil for a later crop; therefore, little additional energy need be added for fertilizing.

Natural gas, which is very similar to methane, is accounting for about one-third of the country's entire energy consumption between 1971 and 1975. Nevertheless, Dr. Inman estimates that it would take 110,000 square miles, or only one-fifth of our farmland, to grow enough plants to satisfy our entire current natural gas needs. Of course, algae and trees could make significant fuel contributions without even using farmland.

A CHOICE: FARMING OR FISSION?

Congress should ponder the possibility that one solar energy technique, called farming, might by itself provide about 33 percent of the country's energy almost immediately, while it took 18 years for nuclear fission to provide only 1 percent of the country's energy.

It is time for the American people to tell their representatives at all levels of government whether we should build the country's future on deadly fuels and radioactive poisons, or on sunflowers and sugarcane, and whether we should accept AEC Chairman Dixy Lee Ray's budget recommendation of only $32 million for solar energy and over $700 million for nuclear fission next year.

My own hope is that voters will insist on a major solar energy program starting now, at least as generously funded as nuclear fission, with sufficient budget to contract for large demonstration projects which will simultaneously contribute to the country's clean energy supply while also creating commercial solar energy industries before the end of the 1970's.

EXHIBIT 1

[From the Committee for Nuclear Responsibility, Nov. 7, 1973]

SOLAR ENERGY—HOW SOON?

(By Egan O'Connor)

I wish to address the question of HOW SOON this country could enjoy safe electric power and clean fuels produced by solar energy.

Tonight, President Nixon outlined his concept of "Project Independence"—his name for making this country independent of foreign fuel-sources by 1980.

He did not mention solar energy once. That omission makes his speech completely consistent with the widespread notion that solar energy can't possibly help us out of our energy problems in the 1970's. A typical "explanation" of that "fact" goes like this:

> It will take us years to work out the technical problems and test the demonstration plants and reduce the cost. And after that, don't you know it takes 10 or 20 years to build an industry and achieve a significant market penetration? Just look at nuclear fission. After 20 years of work and promotion, it supplies only 1% of our energy. What makes you think it can be any different with solar energy?

It all sounds so plausible that even some friends of solar energy swallow it. I intend to examine those assertions point by point, but first I would like to make two points of my own: there's a lot of solar energy around, and working solar energy equipment exists today. Therefore, if this country were really determined to introduce solar energy in the 1970's, it could be done—which is the thesis of this paper.

WHAT DOES SOLAR ENERGY DO?

To describe the amount of solar energy arriving on this planet every day, I will use some estimates from the article by Dr. M. King Hubbert entitled "The Energy Resources of the Earth" in the September 1971 issue of *Scientific American:*

> About 30% of solar energy reaching the Earth is directly reflected back into space. Another 47% of it is absorbed by the atmosphere, the land, and the oceans, where it is converted to heat; this heat, too, is eventually re-radiated into space—otherwise the planet would accumulate more and more heat every day. About 23% of incoming solar energy is spent driving the Earth's water cycle—evaporation and precipitation—before it is re-radiated to space as heat. It takes much less than 1% of our incoming solar energy to power all the winds and the waves and the atmospheric and oceanic circulations; friction eventually converts this energy to heat, too, which is re-radiated.
>
> Amazingly, all the plants on Earth, which provide all the food-energy for all the animals on Earth, use less than three ten-thousandths (0.03%) of the incoming solar radiation. Plants capture solar energy chemically through the process of photosynthesis.
>
> Solar energy, which is just passing through our ecosphere on its way back to space, is manifest in many forms—heat, light, lightning, motion (kinetic energy), and chemical energy; it can also be manipulated to become electric power on its way.
>
> The late, great chemist, Dr. Farrington Daniels, pointed out in 1970 that, "Solar energy is amply adequate for all the conceivable energy needs of the world. It is

harmless and it is certain to work . . . Surely solar energy will be important within 20 years, and if enough financial support should become available, the time could be considerably less."

TYPES OF WORKING SOLAR ENERGY EQUIPMENT

It defies common sense to say that, "realistically", solar energy can't help us at all in the 1970's. With our own eyes, we can go visit solar energy equipment and components which are working today:

Solar-heated homes;

Solar-powered refrigerators;

Solar-electrified homes (with wind-generators);

Stoves and cars running on solar-made methane (or hydrogen);

Solar cells silently converting sunlight to electricity with 17% efficiency on Earth, and in Space, running Skylabs;

A power-plant getting 10% of its fuel from organic trash (ex-plants);

An installation producing low-sulfur oil from manure (ex-plants) and sewage;

Fuel-cells producing electricity without thermal pollution;

Electrolyzers converting solar energy to clean hydrogen fuel;

Hydrogen pipelines;

Low-temperature vapor-turbines suitable for solar-heated vapors;

Batteries/flywheels/air-compressors (for solar energy storage);

And an array of working solar devices at Dr. Erich Farber's Solar Energy Lab at the University of Florida (Gainesville 32601) which includes solar engines, solar pumps, solar water heaters, solar sewage treatment, and solar water distillers.

I doubt that Americans could keep their tempers very long if they could see what is being denied to them. Though government and industry are claiming that fossil fuels and nuclear fission are our *only* practical near-term options, I will make my counter-claim again:

Solar energy is the *most* practical and attractive and possibly even the cheapest way to expand our power and fuel supplies under "project independence" during the 1970's.

It takes over 8 years to build a nuclear power plant; it takes about 5 years to build an additional coal-burning plant; it will be 1980 before coal-gasification plants are making a meaningful contribution to our energy supply; the same is true for oil-shale.

To me it seems self-evident that engineers and industry could produce wind-generators and methane-makers and solar heat-concentrating devices just as quickly as they could deliver on the so-called "immediate" fossil-and-fission options. Yet the notion is promoted that solar energy can't even be *considered* as a near-term contributor.

"IT WILL TAKE US YEARS TO WORK OUT THE TECHNICAL PROBLEMS"

This objection often comes from technical experts. For non-technical people to realize what is meant, we can read proposals for solar energy research-grants. They are replete with plans for comprehensive calculations on the performance, durability, efficiency, cost, and other characteristics of practically every sub-system and component; analysis of "trade-offs" at every turn between efficiency, cost, strength, and so forth of the various design variations; analysis of "interface" characteristics of one set of components with another; production and performance tests for various segments of the system, and so forth. Engineering is an awesome art which I respect.

The point is that there can be years of difference, even decades, between developing solar energy systems which just *work* (contribute power), and developing elegant systems which work as well as engineers know they can *someday* work. The first generation of fossil-fuel electric plants certainly did not work as well as today's, but they surely produced a lot of power.

If competent engineers built wind-power plants, methane-power plants, and solar heat-concentrating equipment today with knowledge they have *now*, it is inconceivable that the plants would fail to produce fuel and electric power.

Therefore it is legitimate to ask: when do you interrupt cerebration and start *building?* When is a design good *enough?* When is solar equipment "practical" and who is making that decision?

There are a few engineers who are eager to build solar power systems now for the sake of the country, but the National Science Foundation (which controls all federal solar-power funds) is still cautiously funding paper-work instead of hardware.

The delays do not enrage the typical solar expert, however. After all, he seldom feels personal responsibility for preventing a fossil-fuel and fission nightmare. His personal stake in solar energy centers in a new opportunity to do interesting work, preferably at a comfortable rate, with lots of conferences thrown in.

He is the last person who wants to say that solar energy could contribute to our near-term energy supply, because that would mean pressure on him to produce "quick and dirty" solutions and compromises, instead of the excellent work which will satisfy his soul and possibly enhance his reputation.

It should be no surprise that many solar experts diligently caution Congress and the public not to expect solar energy too soon "because of the difficult technical problems to work out." Someone even managed to persuade a U.S. Senator to make the following statement last month: "It appears that we are still 50 to 60 years away from utilizing solar energy to generate electricity."

It is impossible to digest that statement in view of several solar technologies which could produce significant power NOW. What allowance, for instance, does such a statement make for the proposals of Civil Engineering Professor William Heronemus (University of Massachusetts, Amherst 01002) who has already figured out wind-power systems which could satisfy all the electric power growth for New York City, New England, and Wisconsin, starting now and covering expected demand even in the years 1990 and 2000?

"IT WILL TAKE US YEARS TO TEST THE DEMONSTRATION PLANTS"

True. It could take 5 or 10 years to build and fully test demonstration plants. But suppose that solar engineers are sure their designs will work, and work *safely*. Could we shorten or skip the long demonstration phase?

The suggestion has at least one precedent. The demonstration phase for *large* nuclear fission plants was skipped completely, which was downright dangerous. A possible second precedent could be coal gasification plants; the expectation that they are going to make a meaningful contribution to our energy supplies by 1980 reflects a virtual elimination of their demonstration-phase.

Shortening solar power's demonstration phase *would* create some financial uncertainties, but it would also create some power.

From a business point of view, it is prudent to follow feasibility studies with small prototype plants, and then with bigger better demonstration plants, before committing large chunks of private capital to the "risk" of mass-production. Most prudent of all is to get the government to pay for the first three steps.

The question is: Should we tolerate 5 or 10 years extra deprivation from solar energy for the sake of business prudence?

Business will surely say, "If you want it that badly and fast, YOU (the taxpayers) offer us relief from all risk, and we'll do it for you." That is essentially what was done for civilian nuclear fission, for weapons, for the moon program, and what is proposed now for coal-gasification and geothermal energy. Why not for solar energy?

"IT WILL TAKE YEARS TO REDUCE THE COST"

The myth nurtured in this statement is that near-term solar energy would necessarily be much more expensive than nuclear or fossil energy.

Professor William Heronemus has shown convincingly that, with *mass production* of wind-power equipment, wind-power plants built from now on would be just as cheap, or cheaper, for New England than nuclear plants.

For Wisconsin, he has shown that wind-power electric systems could be competitive when average revenue for a kilowatt-hour delivered on demand by a utility is 3½c. Right now in Washington, D.C., I am paying exactly 3c per kilowatt-hour.

Heronemus has also shown that Wisconsin wind-power systems which produce hydrogen for *direct* use (not for conversion to electricity) would be competitive when natural gas sells for $3.36 per million BTU's (perhaps as early as 1975) or when home heating-oil costs about 28c per gallon (perhaps this winter).

When overt and covert enemies of solar energy are confronted with the near-term competitiveness of wind-power, they retreat to the claim that wind-power is too limited to make any *significant* contribution to our energy supplies. According to Heronemus, however, the total energy available to this country from the winds via practical wind-power systems complete with the necessary storage sub-systems, could total at least one 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.

Space limits me from discussing all the other solar-energy technologies which could be made cost-competitive in the very near future, so I will just quote the conclusion of the National Science Foundation (N.S.F.) Solar Energy Panel in December 1972: "For most applications, the cost of converting solar energy to useful forms of energy is now higher than conventional sources, but due to increasing prices of conventional fuels . . . it will become competitive in the near future." By near future, the N.S.F. Panel specified from 5 to 15 years.

The Panel also singled out sea-thermal power for special mention; sea-thermal power is based on the solar heat collected naturally by the sea. The Panel said that if the U.S. tapped sea-thermal power from the Gulf Stream alone, "the total annual production could exceed the year-2000 projected total energy demands."

The one solar-energy technology whose cost is *always* cited by solar power enemies is, of course, the one which is most expensive today. Namely, solar cells (photo-voltaics) which convert light from the sun directly into electric current.

By citing the cost of the solar cells which are used in the space program, one can indeed make solar electricity sound "unrealistic". After all, one solar array for Apollo cost about $2,000,000 per kilowatt; such figures compare with nuclear power in 1980 at $600 to $800 per installed kilowatt. So we are told, "The cost of solar power will have to be reduced 4,000-fold before it can begin competing."

Those who actually manufacture solar cells for space say the cost is more like $75,000 per kilowatt, because sales are too limited for mass-production. William Cherry, a N.A.S.A. expert, asserts that mass-production could immediately cut the cost of solar cells

for use on Earth to about $10,000 per kilowatt.

That would put solar cells into striking range of cost-competition, for all they would need is about a 10-fold cost-reduction (not 4,000-fold). The additional costs of *storing* solar electricity, of course, would require a larger cost-reduction.

If solar cells were mass-produced and their efficiency sacrificed down from nearly 18% to 1%, the cells could probably be made competitive NOW at less than $1,000 per kilowatt; the disadvantage would be the extra area consumed by cells of lower efficiency—perhaps a tolerable disadvantage on a temporary basis.

How long will it take to devise "practical" solar cells of reasonable efficiency (about 7%) at reasonable cost? The N.S.F. Panel estimated 15 years, but progress this year has been made several experts suggest it might be much sooner. The margin of pessimism in some solar-cell estimates can be illustrated as follows:

In 1972, the National Research Council of the National Academy of Sciences stated that, "The additional research required to develop 16% efficient solar cells is estimated at approximately $5-million (60 man-years) . . ."

Nonetheless, in that very same year, Dr. Joseph Lindmayer and his colleagues at COMSAT promptly achieved nearly 15% efficiency on a budget of less than $500,000—one-tenth of the expert estimate. (NOTE: solar cells are more efficient on Earth than in Space; Dr. Lindmayer's COMSAT cell is nearly 18% efficient on Earth).

Dr. Lindmayer, who has founded the Solarex Corporation (1335 Piccard Drive, Rockville, MD 20850), believes that with a research and development budget of $1-million per year, he could produce a 7%–10% efficient solar cell for $1,000 per kilowatt by 1980 or sooner.

So I have two pieces of advice:

1. Don't be shaken by those high figures on the cost of solar cells; in spite of their cost-handicap today, they may turn out to be a near-term winner.

2. Don't forget that there are several *other* solar-energy technologies (wind, sea-thermal, methane, heat) which could certainly become competitive in the 1970's if industry or government would put up the money to begin mass-production.

IT TAKES 10 OR 20 YEARS TO BUILD AN INDUSTRY AND ACHIEVE SIGNIFICANT MARKET PENETRATION

That depends. Once certain basic technical break-throughs had been made, we built a big TV industry, computer industry, space industry, and transistor industry all in less than 10 years. So it is not reasonable to say 20 years are *required* to build solar industries which require no further break-throughs.

If investors would *finance* solar energy solidly, and *market* it as aggressively as nuclear power, then 10 years is a more reasonable estimate than 20 for building a big solar energy industry.

Meanwhile, *during* its growth, the solar industry could make substantial contributions to our energy supply. It is not true that 10 years more must elapse before solar power can start having its impact.

In the last year and a half, more than a dozen small solar-energy companies have been formed, mostly on shoe-strings. These entrepreneurs often say, "We don't want to over-sell solar energy and damage our credibility, because *we* (the tiny company) certainly won't have a significant impact on energy supplies right away."

I agree. Tiny companies with tiny financial resources can not possibly bring about the significant and speedy introduction of solar energy to which Americans are entitled.

And the billion-dollar corporations which *could* do it if the energy corporations continue refusing, probably *won't* do it. Why, for instance, should a Xerox or IBM or MMM or Texas Instruments diversify into solar energy in a big way, when it might mean facing fierce obstruction from even more powerful energy corporations? What company needs headaches like that?

On the other hand, if this country really were determined to introduce solar energy in the 1970's, business arrangements could be made between electronic companies, aerospace firms, oil companies, pipeline owners, utilities, nuclear industries, and building industries to get the job done.

First we would notice the public relations, TV spots and full-page advertisements, about the practicality of inexhaustible, reliable, clean, and natural solar energy. "A simple idea whose time has come". The companies would point out with pride that several solar power technologies would even eliminate thermal pollution of our rivers and bays. Solar-energy development would be equated with patriotism and love of the country—which is correct.

Behind the scenes, meanwhile, the companies would see to it that politicians enacted the right tax-benefits, zoning laws and building codes, and that the rights-of-way for additional pipelines (for solar fuels like methane and hydrogen) were secured, along with the necessary permission to use wind and light and solar heat available on some public land, city-roofs, off-shore areas, or even wind-rights above sections of highways.

For make no mistake: if solar energy is going to have a *significant* impact, lots of laws and regulations will have to be re-written. Tiny solar companies with meager financial resources and non-existent political influence will not be able to achieve significant "market penetration" very fast, no matter how wonderful their equipment is.

So it is *correct* to say that significant contributions from solar energy will be impossible 10 years from now, or even 60 years from now, *unless* powerful interests favor it. We are at their mercy. If they decide to support solar energy now, we could start enjoying it in the 1970's.

"LOOK AT NUCLEAR FISSION . . . WHAT CAN MAKE THE TIME FOR SOLAR ENERGY ANY DIFFERENCE?"

It is true that after 20 years of hard work and promotion, nuclear power contributes only about 1% of our energy. But there is simply no valid projection of its history onto solar energy.

For one thing, nuclear engineers are always at work on the brink of catastrophe and at the edge of knowledge. Because of the radioactivity, they can't even get near the guts of their own machinery after it has gone into operation, and to this day, there is some uncertainty about what is happening in there.

Rep. Chet Holifield, former Chairman of the Joint Committee on Atomic Energy, acknowledged in a speech May 21, 1970: "The construction and operation of nuclear reactors are very very complex, costly, and inherently highly dangerous matters."

Tinkerers don't build nuclear reactors in their back yards. But they do build solar equipment.

The basic simplicity and inherent practicality of many solar energy technologies are manifest in the working mini-systems built by enthusiasts. Many kinds of solar energy equipment can *remain* simple when their size is increased and they go into mass production.

The opposite is true with nuclear power. The inherent complexity and danger never disappear, and as plants are made bigger, they acquire whole new safety problems and more intricate "defenses in depth" against their deadly radioactive centers.

According to Milt Shaw, the AEC's former Director of Reactor Technology and Development, the big reason that nuclear power plants are years behind schedule is that there are not enough people who have learned how to build them. That problem will be virtually non-existent with solar energy equipment.

A second difference is that we are not going to see a regulatory agency having to de-rate or shut down solar power plants to reduce the likelihood of catastrophic injury to the public; yet this is what has happened in the last two years for about one-third of the "operable" nuclear power plants in this country.

A third difference is that utilities won't have to build two solar units to make sure that one is always "operable", which seems to be the only way to secure reliable power from nuclear plants. When a nuclear plant is down for a simple repair, it may take 7 months to do it, because of the radioactivity. And since nuclear plants are huge, they can not be spared that long. I think that nuclear "down time" may help explain why many utilities, which used to be satisfied with reserve equipment of less than 20% above their peak loads, are now building expensive reserves of 30%, 35%, and even over 40% above their peak loads.

Fortunately, solar plants—for example, wind-power stations—can be built in small units which don't deprive the system of huge chunks of power during repair and maintenance.

A fourth difference which could make the introduction of solar energy faster than the introduction of nuclear fission is the probable popularity of solar energy. Furthermore, solar energy could be *cheaper* than nuclear fission, perhaps in cost-to-customers and surely in research and development costs.

The R&D program for civilian nuclear fission has already cost tax-payers over $4-billion and another $5-billion tax-dollars are estimated to bring the nuclear breeder to commercial readiness by 1985. By comparison, the Solar Panel of the N.S.F. estimated that we might bring several solar-energy systems to commercial readiness in just 5 to 15 years with an R&D program of about $3-billion (total, spread over 15 years).

In fact, in S. 2650, Senator Alan Cranston's Solar Heating and Cooling Demonstration Act of 1973, the proposed budget for demonstrating the practicality of solar-heated and solar-air-conditioned buildings is just $50-million total over 3 to 5 years.

Others estimate that just $1- to $50-million per year for a few years would make even solar-cells competitive power-producers on Earth.

Even if such estimates turn out low *by 100%*, it is obvious that making solar energy commercially ready is not going to cost $9-billion in R&D like nuclear power . . .

SOLAR ENERGY—HOW SOON?

Let's return now to the original question: HOW SOON could this country enjoy safe electric power and clean fuel produced by solar energy? I think it is a political matter first (our *insistence* on doing it) and a technical matter only second . . .

"Had it not been for an abundance of fossil fuels . . . we might today have a 'Solar Energy Economy' just as effective and efficient as our 'Fossil Fuel Economy' ", according to Leon Gaucher in the National Petroleum Institute's *U.S. Energy Outlook*, 1972 . . .

Part of fighting [for solar energy] is developing more trust in our own common sense. This summer, Nobel Laureate (chemistry) Sir George Porter put it very well:

"I have no doubt that we will be successful in harnessing the sun's energy . . . If sunbeams were weapons of war, we would have had solar energy centuries ago."

While public interest in energy is so high, it's the right time to let people know about solar energy. Now's the time to insist on solar power.

IN PRAISE OF AMERICA

Mr. THURMOND. Mr. President, my attention was recently called to an editorial which, in my opinion, is one of the finest I have ever read. It was written a few months ago by Mr. Gordon Sinclair, a radio commentator in Toronto, Canada.

Mr. Sinclair makes the point that the United States is the most helpful—and least helped—nation on Earth. This country funnels billions of dollars into foreign lands for humanitarian purposes, and gets nothing in return. We defeat our enemies and then provide them postwar aid to enable them to prosper. Look at Japan and Germany as they were in 1946 and look at them today.

But, as Mr. Sinclair points out, the United States receives little reciprocation.

In these days when it is "in vogue" to downgrade and criticize this country, it is heartening to read Mr. Sinclair's moving and thought-provoking passages. It strikes me as being ironic, and rather sad, that they would have to come from a foreigner.

Mr. President, I ask unanimous consent that the editorial entitled "In Praise of America," which was reprinted in the Washington Post, December 13, 1973, be printed in the RECORD at the conclusion of my remarks.

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

FOR THE RECORD: IN PRAISE OF AMERICA

(By Commentator Gordon Sinclair)

This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the earth.

Germany, Japan and to a lesser extent, Britain and Italy were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of these countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1956, it was the Americans who propped it up, and their reward was to be insulted and swindled on the streets of Paris.

I was there. I saw it.

When distant cities are hit by earthquakes, it is the United States that hurries in to help. . . . This spring, 59 American communities (were) flattened by tornadoes. Nobody helped.

The Marshall Plan and the Truman Policy pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent, war-mongering Americans . . .

Why does no other land on earth even consider putting a man or woman on the moon?

You talk about Japanese technocracy, and you get radios. You talk about German technocracy, and you get automobiles.

You talk about American technocracy, and you find men on the moon—not once but several times—and safely home again.

You talk about scandals, and the Americans put theirs right in the store window for everybody to look at . . .

When the railways of France, Germany and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke.

I can name you 5,000 times when the Americans raced to the help of other people in trouble. Can you name me even one time when someone else raced to the Americans in trouble? I don't think there was outside help even during the San Francisco earthquake.

Our neighbors have faced it alone, and I'm one Canadian who is damned tired of hearing them kicked around. They will come out of this thing with their flag high. And when they do, they are entitled to thumb their noses at the lands that are gloating over their present troubles.

I hope Canada is not one of these.

THE NEED FOR COOPERATION IN ENERGY RESEARCH

Mr. ROTH. Mr. President, I was very pleased to see the strong emphasis that Secretary of State Kissinger gave yesterday to the need for cooperation in energy research and development between the United States, Japan, and Western Europe.

As I said in hearings last week on S. 2744, a bill to establish an Energy Research and Development Administration, I believe that it is extremely important to share the costs of energy research and development with our allies. There has been a lot of talk about burden-sharing with our allies in defense matters, and yet a great deal of difficulty in working out appropriate arrangements given the great differences in military technologies and defense requirements of these countries.

It seems to me that there is a great deal of opportunity for burden sharing in developing new energy and related environmental technologies. Western Europe, Japan, and the United States all face the same fundamental problem—a need to import petroleum in order to meet the high levels of demand in our industrial societies. Despite the future development of Alaskan reserves for us and the North Sea for Europe, our demands will grow so rapidly, projections for all regions suggest increasing dependence on foreign supplies, unless a technological breakthrough is made.

It is absolutely essential that we carry out the goals we have set of achieving a capacity for energy self-sufficiency. These goals can be achieved more quickly if we cooperate with other technologically advanced societies.

A deficiency of S. 2744 as it now reads is that there is no provision for international cooperation either in the goals or in the structure of the new Energy Research and Development Administration. Accordingly I have drafted an amendment, which I intend to offer in markup in the Government Operations Committee, to insure that one of the purposes of ERDA will be to seek and participate in international cooperation in energy and related-environmental technologies. My amendment also provides that a single high level officer will be responsible for ERDA's effort to seek burden-sharing in energy research.

Mr. President, I ask unanimous consent that the text of Secretary of State Kissinger's speech, as printed today in the New York Times, be printed in the RECORD.

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

TEXT OF ADDRESS BY KISSINGER IN LONDON ON ENERGY AND EUROPEAN PROBLEMS

WASHINGTON, December 12.—Following is the prepared text of an address by Secretary of State Kissinger to the Pilgrims, a British-American organization, in London today, as made public by the State Department:

I am grateful for the opportunity to speak to you this evening because, like most Americans, I am seized by a mixture of pride and terror when invited to appear before a British audience. In my particular case and without any reflection on this distinguished assemblage, it is probably more terror than pride for there is no blinking the fact—it is there for all to hear—that my forebears missed the Mayflower by some 300 years.

Our two peoples have been more closely associated than any other two nations in modern history—in culture and economics, in peace and in war. We have sometimes disagreed. But the dominant theme of our relationship in this century has been intimate alliance and mighty creations.

In 1950, while the Atlantic alliance was considering a continuing political body, my great predecessor Dean Acheson spoke to this society. Describing the travails of creation, Acheson noted that a "strange and confusing dissonance has crowded the trans-Atlantic frequencies." But he added that this "dissonance flows from the very awareness that difficult decisions must be made and is a part of the process of making them."

Again today America and Western Europe find themselves at a moment of great promise and evident difficult—of renewed efforts to unite and old problems which divide. It is a time of both hope and concern for all of us who value the partnership we have built together. Today, as in 1950, we and Europe face the necessity, the opportunity and the dilemma of fundamental choice.

PROBLEMS AND HOPES

Because we have an historical and intimate relationship, I want to speak tonight, frankly, of what has been called the "Year of Europe" of the difficulties of 1973 and the possibilities of 1974 and beyond.

Last April, the President asked me to propose that Europe and the United States strive together to reinvigorate our partnership. He did so because it was obvious that the assumptions on which the alliance was founded have been outstripped by events.

Europe's economic strength, political cohesion, and new confidence—the monumental achievements of Western unity—have radically altered a relationship that was originally shaped in an era of European weakness and American predominance.

American nuclear monopoly has given way to nuclear parity raising wholly new problems of defense and deterrence—problems which demand a broad re-examination of the requirements of our security and the relative contribution to it of the United States and its allies.

The lessening of confrontation between East and West has offered new hope for a relaxation of tensions and new opportunities for creative diplomacy.

It has become starkly apparent that the great industrialized democracies of Japan, Europe and North America could pursue divergent paths only at the cost of their prosperity and their partnership

These historic changes were occurring in a profoundly changed psychological climate in the West. The next generation of leaders in Europe, Canada and America will have neither the personal memory nor the emotional commitment to the Atlantic alliance of its founders.

Even today, a majority on both sides of the Atlantic did not experience the threat that produced the alliance's creation or the sense of achievement associated with its growth. Even today, in the United States, over 40 Senators consistently vote to make massive unilateral reductions of American forces in

Europe. Even today, some Europeans have come to believe that their identity should be measured by its distance from the United States.

On both sides of the Atlantic we are faced with the anomalous—and dangerous situation which in the public mind identifies foreign policy success increasingly with relations with adversaries while relations with allies seem to be characterized by bickering and drift.

UNITED STATES INTENTIONS EXPLAINED

There exists, then, a real danger of a gradual erosion of the Atlantic community, which for 25 years has insured peace to its nations and brought prosperity to its peoples. A major effort to renew Atlantic relations and to anchor our friendship in a fresh act of creation seemed essential. We hoped that the drama of the great democracies engaging themselves once again in defining a common future would infuse our Atlantic partnership with new emotional and intellectual excitement. This was the origin of the initiative which came to be called the "Year of Europe."

Let me lay to rest certain misconceptions about American intentions:

The President's initiative was launched after careful preparation. In all of our conversations with many European leaders during the winter and spring of 1972–73 there was agreement that Atlantic relations required urgent attention to arrest the potential for growing suspicion and alienation between Europe and America.

We do not accept the proposition that the strengthening of Atlantic unity and the defining of a European personality are incompatible. The two processes have reinforced each other from the outset and can continue to do so now. The United States has repeatedly and explicitly welcomed the European decision to create an independent identity in all dimensions—political and economic. Indeed, we have long—and more consistently than many Europeans—supported the goal of political cohesion.

We have no intention of restricting Europe's international role to regional matters. From our perspective European unification should enable Europe to take on broader responsibilities for global peace that ultimately can only contribute to the common interest. The American initiative was meant to mark Europe's new pre-eminence on the world scene as well as within the North Atlantic community.

A comprehensive re-examination of all aspects of our relationship—economic, political, and military—is imperative. It is a fact that our troops are in Europe as a vital component of mutual defense. It is also a fact—indeed, a truism—that political, military and economic factors are each part of our relationship. In our view, the affirmation of the pervasive nature of our interdependence is not a device for blackmail. On the contrary, it is the justification for conciliatory solutions, for the specialized concerns of experts and technicians have a life of their own and a narrow national or sectarian bias. The purpose of our initiative was to override these divisive attitudes by committing the highest authority in each country to the principle that our common and paramount interest is in broadly conceived cooperation.

Since last April Europe has made great strides toward unity—particularly in political coordination. The United States strongly supports that process. But as an old friend we are also sensitive to what this process does to traditional ties that in our view remain essential to the common interest.

Europe's unity must not be at the expense of Atlantic community, or both sides of the Atlantic will suffer. It is not that we are impatient with the cumbersome machinery of the emerging Europe. It is rather the tendency to highlight division rather than unity with us which concerns us.

UNEASINESS ACKNOWLIDGED

I would be less than frank were I to conceal our uneasiness about some of the recent practices of the European community in the political field. To present the decisions of a unifying Europe to us as faits accomplis not subject to effective discussion is alien to the tradition of U.S.-European relations.

This may seem a strange complaint from a country repeatedly accused of acting itself without adequately consulting with its allies. There is no doubt that the United States has sometimes not consulted enough or adequately—especially in rapidly moving situations, but this is not a preference; it is a deviation from official policy and established practice—usually under pressure of necessity. The attitude of the unifying Europe, by contrast, seems to attempt to elevate refusal to consult into a principle defining European identity. To judge from recent experience, consultation with us before a decision is precluded, and consultation after the fact has been drained of content. For then Europe appoints a spokesman who is empowered to inform us of the decisions taken but who has no authority to negotiate.

We do not object to a single spokesman but we do believe that as an old ally the United States should be given an opportunity to express its concerns before final decisions affecting its interests are taken, and bilateral channels of discussion and negotiation should not be permitted to atrophy—at least until European political unity is fully realized. To replace the natural dialogue with extremely formalistic procedures would be to shatter abruptly close and intangible ties of trust and communication that took decades to develop and that have served our common purposes well.

PROBLEMS OF TRANSITION

The United States recognizes the problems of a transitional period as Europe moves toward unity. We understand the difficulty of the first hesitant steps of political coordination. But we cannot be indifferent to the tendency to justify European identity as facilitiing separateness from the United States; European unity, in our view, is not contradictory to Atlantic unity.

For our part we will spare no effort to strengthen cooperative relationships with a unifying Europe, to affirm the community of our ideals and to revitalize the Atlantic relationship. That was the purpose of our initiative last April. It remains the central goal of our foreign policy.

The leaders of the European community meet this week. They will consider the nature of European identity; no doubt they will adopt common policies and positions. In the light of this important meeting, let me outline the position of the United States:

Détente is an imperative. In a world shadowed by the danger of nuclear holocaust there is no rational alternative to the pursuit of relaxation of tensions. But we must take care that the pursuit of détente not undermine the friendships which made détente possible.

Common defense is a necessity. We must be prepared to adjust it to changing conditions and share burdens equally. We need a definition of security that our peoples can support and that our adversaries will respect in a period of lessened tensions.

European unity is a reality. The United States welcomes and supports it in all its dimensions, political as well as economic. We believe it must be made irreversible and that it must strengthen trans-Atlantic ties.

Economic interdependence is a fact. We must resolve the paradox of growing mutual dependence and burgeoning national and regional identities.

WILL PRESS DIALOGUE

We are determined to continue constructive dialogue with Western Europe. We have offered no final answers; we welcome Europe's wisdom. We believe that this opportunity will not come soon again.

So let us rededicate ourselves to finishing the task of renewing the Atlantic community.

First, let us complete the work before us; let us agree on a set of declarations equal to the occasion so that they may serve as an agenda for our governments and as an example and inspiration for our peoples.

Second, let us then transform these declarations into practical and perceptible progress. We will restore mutual confidence if our policies begin to reinforce rather than work against our common objectives. And let us move quickly to improve the process of consultation in both directions. The United States Government made concrete suggestions in this regard at the recent meeting of the foreign ministers in the North Atlantic Council.

A UNIQUE ALLIANCE

But let us also remember that even the best consultative machinery cannot substitute for common vision and shared goals; it cannot replace the whole network of intangible connections that have been the real sinews of the trans-Atlantic and especially the Anglo-American relationship.

We must take care lest in defining European unity in too legalisic a manner we lose what has made our alliance unique: that in the deepest sense Europe and America do not think of each other as foreign entities conducting traditional diplomacy, but as members of a larger community engaged, sometimes painfully but ultimately always cooperatively, in a common enterprise. The meeting to which the foreign ministers of the community were courteous enough to invite me marks a significant step forward in restoring the intangibles of the trans-Atlantic dialogue.

Let us put false suspicious behind us. The Presidest did not fight so hard in Congress for our troops in Europe, for strong defenses, for a conciliatory trade bill, for support for allies around the world; he did not strive so continually to consult on SALT and develop common positions on M.B.F.R.; he did not stand up so firmly to challenges in crises around the world—suddenly to sacrifice Western Europe's security on the altar of condominium. Our destiny, as well as the full strength of our military power, is inextricably linked wtih yours.

NEW CHALLENGES AHEAD

As we look into the future we can perceive challenges compared to which our recent disputes are trivial. A new international system is replacing the structure of the immediate postwar years. The external policies of China and the Soviet Union are in periods of transition. Western Europe is unifying. New nations seek identity and an appropriate role. Even now, economic relationships are changing more rapidly than the structures which nurtured them. We, Europe, Canada, and America, have only two choices: creativity together or irrelevance apart.

The Middle East crisis illustrates the importance of distinguishing the long-range from the ephemeral. The differences of recent months resulted not so much from lack of consultation as from a different perception of three key issues: Was the war primarily a local conflict or did it have wider significance? Has the energy crisis been caused primarily by the war or does it have deeper causes? Can our common energy crisis be solved by anything but collective action?

As for the nature of the Middle East conflict, it is fair to state, as many Europeans including your Foreign Secretary have, that the United States did not do all that it might have done before the war to promote a permanent settlement in the Middle East.

Once the war began, the United States demonstrated great restraint until the Soviet

effort reached the point of massive intervention. Once that happened, it became a question of whether the West would retain any influence to help shape the political future of an area upon which Europe is even more vitally dependent than the United States. We involved ourselves in a resupply effort, not to take sides in the conflict but to protect the possibility of pursuing after the war the objective of a just, permanent settlement which some of our allies have urged on us ever since 1967.

OIL CRISIS IS CHRONIC

At the same time, we must bear in mind the deeper causes of the energy crisis: it is not simply a product of the Arab-Israeli war; it is the inevitable consequence of the explosive growth of worldwide demand outrunning the incentives for supply. The Middle East war made a chronic crisis acute, but a crisis was coming in any event. Even when prewar production levels are resumed, the problem of matching the level of oil that the world produces to the level which it consumes will remain.

The only long-term solution is a massive effort to provide producers an incentive to increase their supply, to encourage consumers to use existing supplies more rationally and to develop alternate energy sources.

This is a challenge which the United States could solve alone with great difficulty and that Europe cannot solve in isolation at all. We strongly prefer and Europe requires a common enterprise.

To this end, the United States proposes that the nations of Europe, North America and Japan establish an energy action group of senior and prestigious individuals, with a mandate to develop within three months an initial action program for collaboration in all areas of the energy problem. We would leave it to the members of the nine whether they prefer to participate as the European community.

ACTION AREAS OUTLINED

The group would have as its goal the assurance of required energy supplies at reasonable cost. It would define broad principles of cooperation, and it would initiate action in specific areas:

To conserve energy through more rational utilization of existing supplies;

To encourage the discovery and development of new sources of energy;

To give producers an incentive to increase supply;

To coordinate an international program of research to develop new technologies that use energy more efficiently and provide alternatives to petroleum. The United States would be willing to contribute our particular skills in such areas as the development of the deep seabed.

The energy action group should not be an exclusive organization of consumers. The producing nations should be invited to join it from the very beginning with respect to any matters of common interest. The problem of finding adequate opportunity for development, and the investment of the proceeds from the sale of energy sources would appear to be a particularly important area for consumer-producer cooperation.

URANIUM FOR REACTORS

As an example of a task for the energy action group, I would cite the field of enriching uranium for use in nuclear power reactors. We know that our need for this raw material will be great in the nineteen-eighties. We know that electric utilities will wish to assure their supply at the least possible cost. We know that European countries and Japan will wish to have their own facilities to produce at least part of their needs for enriched uranium. Such plants require huge capital investment. What could be more sensible than that we plan together to assure that scarce resources are not wasted by needless duplication?

The United States is prepared to make a very major financial and intellectual contribution to the objective of solving the energy problem on a common basis. There is no technological problem that the great democracies do not have the capacity to solve together—if they can muster the will and the imagination. The energy crisis of 1973 should become the economic equivalent of the Sputnik challenge of 1957. The outcome can be the same. Only this time, the giant step for mankind will be one that America and its closest partners take together for the benefit of all mankind.

We have every reason of duty and self-interest to preserve the most sucecssful partnership in history. The United States is committed to making the Atlantic community a vital positive force for the future as it was for the past. What has recently been taken for granted must now be renewed. This is not an American challenge to Europe; it is history's challenge to us all.

LOOSENING TIES PAINFUL

The United Kingdom, we believe, is in a unique position. We welcome your membership in the European community—though the loosening of some of our old ties has been painful at times. But you can make another historic contribution in helping develop between the United States and a unifying Europe the same special evidence of intimacy that benefited our two nations for decades. We are prepared to offer a unifying Europe a "special relationship," for we believe that the unity of the Western world is essential for the well-being of all its parts.

In his memoirs Secretary Acheson described the events of his visit to London in the spring of 1950. He described the need of his time for an "act of will, a decision to do something" at a crucial juncture.

We require another act of will—a determination to surmount tactical squabbles and legalistic preoccupations and to become the master of our destinies. We in this room are heirs to a rich heritage of trust and friendship. If we are true to ourselves, we have it in our power to extend it to a united Europe and to pass it on, further enriched and ennobled, to succeeding generations.

THE CURRENT ENERGY CRISIS

Mr. HASKELL. Mr. President, the Small Business Subcommittee on Environmental, Rural, and Urban Economic Development, chaired by Senator NUNN, held 3 days of hearings recently on the impact of fuel allocations on small business. I want to commend Senator NUNN for calling these hearings to provide a forum for small businessmen to tell their side of the story and to have an input into finding solutions to problems resulting from the current energy crisis.

I was particularly pleased that representatives of agriculture and ski interests in Colorado were on hand to give their views on the situation as it affects their industries. I think all too often small business is left out in the cold when it comes to national policymaking, because it lacks the representation in Washington to plead its case. I think these hearings will help us assist small business through the current crisis.

Statements by witnesses confirmed what I have felt for some time, that we are just now beginning to realize the full effects of the energy crisis, which if the situation is bad could result in a shortfall of 25 to 30 percent in overall petroleum products instead of the 17 percent estimated by the administration. Various State officials and representatives of small business testified on the urgent need for a more clear cut national policy on energy and for more vigorous and prompt action at the top to implement it. Clearly, without such a policy we will have economic dislocation as has not been seen in many years.

Committee of the Senate and House, including the Interior Special Subcommittee on Integrated Oil Operations that I chair, have already begun to study various aspects of the energy crisis. I think it is vitally important for Congress to pursue these various probes and take action if the administration continues to fail to come to grips with the situation confronting us all.

I personally feel that one way to meet the crisis is to institute gasoline rationing, and during debate on the emergency energy bill I offered an amendment calling on the President to implement such a program not later than January 15, 1974.

Mr. President, one of the major themes running through the testimony at the subcommittee's hearings was a lack of definite knowledge on where we stand and just what we have to work with. Witnesses indicated that even with all its problems a system of rationing would be more desirable from this standpoint than a system of taxation, which could be inequitable in many cases. I realize that rationing is unpleasant to many and advocation of such a policy is considered to be politically risky. But I feel that if the facts are made known the American people, including business, industry, and other segments of the economy, would join in whatever efforts are needed to accomplish our goals.

Fortunately, I am not alone in my views. For example, at the hearings Governor Carter of Georgia called for a comprehensive national policy established by the Congress to include a unified system of allocation or rationing, with coupons to be legally negotiable. Governor Curtis of Maine testified:

> The absence of a promptly imposed gasoline rationing program cripples the ability of business and private citizens to arrange their activities in line with the amount of fuel they are likely to have. Immediate gasoline rationing, I am convinced, is the only answer. Although I recognize gas rationing could bring its own brand of injustice, I believe it would be much easier to endure than if gasoline distribution were left open to hoarding and the other uncertainties of a tight market.

The administration's current energy program is basically a voluntary one and it seems to me that in failing to take vigorous action it is playing Russian roulette with our economy.

One administration witness acknowledged that there has been considerable disagreement among the President's advisers as to the impact or scope of the shortages and on what would be the most appropriate action to take at this time. Such confusion only serves to make worse the problems small businessmen and others are encountering in their efforts to cope with the current crisis.

Indications were that in the future the administration will change and go to rationing; that the decision whether to ration or not to ration will be reconsidered a significant number of times in the near future; and that the President's de-

cision of November 25 is not the last word and will be reconsidered.

All I can say is that if this is the case I hope the administration does not wait too long. I do not think we have the time. I believe rationing is inevitable, and I hope the administration will come forth with an equitable system, which in my opinion would provide a better way of dealing with energy shortages than the heavy tax approach now under consideration by some high-level energy officials.

LAW OF THE SEA CONFERENCE

Mr. PELL. Mr. President, mankind's agenda for the closing quarter of this 20th century is filling up with an increasing number of momentous issues. Of these, the need for the establishment of an orderly regime to govern the use of the oceans and the exploitation of their rich resources is one of the most compelling. I have just returned from the United Nations where are taking place the initial talks of the Third United Nations Conference on the Law of the Sea, which is meeting now in New York to decide on the organization of a 10-week session of the conference next summer in Caracas, Venezuela. As a congressional adviser over the past years to our delegation to the preliminary committee meetings and to the conference, I have been following law of the sea developments with the closest attention. Hopefully at Caracas, international agreement can be reached on the structure of a viable and equitable oceans regime. A final session to formalize the results obtained may then be held in Vienna in 1975.

I not only came away from the current meetings impressed by the complexity, scope, and far-reaching consequences of the problems involved in the various Law of the Sea issues, but also by the mounting urgency of finding their solutions. As United Nations Secretary-General Waldheim said at the opening of the Conference, "Time is not on our side and delay would be perilous," since, he warned, "we face the very real probability of increasing the causes of disputes between nations unless agreement is reached."

The need for agreement is widely shared among thinking people concerned with assuring that the world of our children will be a more rational, cooperative, and peaceful place for them to live in than ours has been.

Our distinguished former Secretary of State, Dean Rusk, for instance, recently wrote me that he is—

> . . . deeply concerned about the possible failure to reach international agreements on the Law of the Sea, because I believe that would usher in a national race for the control of open ocean areas which would be incredibly dangerous.

Elizabeth Mann Borgese, the brilliant daughter of a brilliant father, the writer Thomas Mann, is another thinker and doer concerned with another but equally pressing aspect of ocean space. She has been working tirelessly for an oceans regime capable of coping with the practical requirements of today's and tomorrow's technological society. Working through the Center for the Study of Democratic Institutions, she is an activist believer that, to quote her, "The oceans are the great laboratory for the making of the new world order" needed to assure the maximum benefits to mankind from technological and material progress, as well as to deal with the global problems that this progress creates: an increase in the potential clash of international versus national interests, protection of the environmental quality of ocean space, conservation of world food fish stocks and ocean wildlife, peaceful and rational exploitation of the oceans mineral and petroleum resources, maintenance of the freedom of navigation, and regard for the oceans as the "common heritage of mankind."

As Mrs. Borgese writes:

> International organizations, as they developed during the past half century, are simply not geared to cope with problems of this sort.

She says man is "living with one foot in the 21st century, while dragging the other in the 19th."

The Law of the Sea Conference will provide man with a unique opportunity to prove that at least in the vast realm of ocean space, he is capable of striding into the 21st century on both feet rather than limping into it on one.

Mrs. Borgese has been a leading spirit in Pacem in Maribus, which held its fourth meeting earlier in the year in Malta under the center's auspices. From this meeting, emerged a set of guidelines and recommendations for a practical and specific approach to the work of the United Nations Conference on the Law of the Sea. For anyone seeking an understanding of the significance and goals of the conference, this statement provides valuable insight into the nature of the problems and ways leading to their resolution.

I ask unanimous permission that this statement be printed in the RECORD.

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

RECOMMENDATIONS FROM PACEM IN MARIBUS IV TO THE UNITED NATIONS COMMITTEE ON THE PEACEFUL USES OF THE SEA-BED

At the end of the Pacem in Maribus IV Convocation, the prevailing view was that the success of the forthcoming Law of the Sea Conference is vitally important to all nations and to mankind as a whole; that the Declaration of Principles adopted by the United Nations in 1970 should not only form the basis for a future international regime for the Sea-Bed, Ocean Floor and Subsoil thereof beyond the Limits of National Jurisdiction, but that it needs to be supplemented to conform to contemporary technological conditions and to the aspirations of the international community today.

Since the manner in which the objectives and principles are defined may be decisive for the success of the Conference, it was felt that these objectives and principles should adequately reflect the persuasive evidence produced in the discussions within the U.N. since the initial text was adopted, to the effect that the Sea-Bed, Ocean Floor and Subsoil thereof beyond the Limits of National Jurisdiction must be considered as *part of ocean space* which is an ecological whole; that man's multiple uses of ocean space intersect and interact; that activities in the water column may affect the sea-bed and vice versa; that activities in the areas under national jurisdiction may affect international areas, and vice versa; that the conservation of the marine environment and the rational management of its resources are essential to the survival of humanity.

Therefore, the U.N. Committee on the Peaceful Uses of the Sea-Bed might consider the following points as a possible basis for the U.N. Conference on the Law of the Sea.

OCEAN SPACE AS A WHOLE

1. Ocean space and the air column above it are an ecological unity. Increasing world industrialization, multiplying populations, coastal congestion, increased world use of chemicals, and many other factors are subjecting the marine environment to unprecedented pressures particularly in the vicinity of highly industrialized countries. No one State can cope alone with the developing situation. Minimum world-wide standards are thus required with regard to the avoidance of pollution in the marine environment.

2. Rapidly advancing technology is enabling man significantly to change the state of the marine environment through diversion of important rivers and marine currents, weather modifications and other means. Use of technology which can seriously affect the natural state of the marine environment over large areas must be subjected to international control.

3. The development of super-tankers, liquified natural gas carriers, submarine navigation, ships with nuclear propulsion and other developments are creating new hazards to the marine environment and to the safety of navigation. Minimum international standards must be elaborated through global marine institutions with comprehensive functions which can take into due account the interaction between major peaecful uses of the sea.

4. Ocean space is becoming an economic unity in that the uses of the surface of the sea, of the water column and of the seabed are becoming increasingly interlinked. International law must recognize this fundamental fact by consolidating existing legal regimes for different activities.

5. The rapid increase of man's multiple activities requires the management of the seas and its resources to a much larger extent than has been the case in the past. Present realities make it mandatory that control and management of the oceans must be shared between coastal states and the international community in accordance with the principle of the common heritage of mankind.

OCEAN SPACE WITHIN NATIONAL JURISDICTION

6. Precise over-all limits to national jurisdiction are required.

7. Navigation, overflight, scientific research, the laying of submarine cables and perhaps some other activities are vital public international interests and as such must be internationally protected within the limits of national jurisdiction.

8. Due to technological advance and increasing fishing effort, intolerable pressures are developing on desirable fish stocks in some parts of the world. Global minimum standards of biological and economic management must be elaborated to be implemented through regional bodies and marine institutions for ocean space with comprehensive functions.

9. Special international protection must be accorded to slowly reproducing marine species, such as sea mammals.

10. Coastal states have obligations as well as rights in the area of ocean space within their jurisdiction; these obligations extend not only to the protection within the jurisdiction of such activities as may be considered public international interests, but

also to management of the environment and of living resources in a manner conforming at least to minimum international standards.

11. States which do not possess the financial or technical capability to attain minimum international standards must receive the assistance needed through comprehensive institutions for ocean space.

OCEAN SPACE BEYOND NATIONAL JURISDICTION

12. It is strongly recommended that not only the seabed, but also ocean space and its resources beyond national jurisdiction be considered a common heritage of mankind and that appropriate treaty articles embodying this concept be included in any draft treaty.

13. It is believed that only through the adoption and subsequent implementation by the international community of the basic concept of common heritage of ocean space beyond national jurisdiction, can the future beneficial use of ocean space and its resources by all states be assured, and indeed expanded, in contemporary conditions of intensive exploitation accompanied by increasingly powerful technology.

14. The concept of common heritage of mankind of ocean space and its resources beyond national jurisdiction must form the basis of future international law of the sea and be given expression in an international treaty or treaties generally agreed upon by the international community which harmonize the rights of states with the emerging world interest.

15. The treaty or treaties to which reference has been made must include provision for a machinery balanced in such a manner as to insure that the decisions of the machinery reasonably reflect the wishes of the majority of the population of the world giving due weight to the needs of the developing nations and to the economic dependence of states on ocean space.

16. Land-locked and shelf-locked countries must be assured access to ocean space, must be given the opportunity, on an equal basis with coastal states, to take part in the exploitation of resources beyond national jurisdiction and must participate in the sharing of benefits derived from the exploitation of ocean resources beyond national jurisdiction.

THE INTERNATIONAL MACHINERY

17. The international machinery must perform, inter alia, the following functions:

a. Providing a general forum for the discussion, negotiation and accommodation of national interests in ocean space;

b. General and non-discriminatory standard setting and regulation in respect to major peaceful uses of ocean space;

c. Biological and economic management and conservation of the living resources of the sea beyond national jurisdiction and conservation and management, in cooperation with the coastal state, of living resources which migrate between ocean space under national jurisdiction and ocean space beyond national jurisdiction;

d. Exploration and exploitation of non-living resources of ocean space beyond national jurisdiction either directly or in participation with states or through a system of licenses;

e. Equitable sharing of benefits derived from the exploitation of the living and non-living resources of ocean space beyond national jurisdiction, which also makes provision for a contribution from coastal states in respect to benefits derived from the exploitation of resources in areas of ocean space under their jurisdiction. Such a contribution appears justified in view of the benefits that would be derived by the coastal state from the management of resources outside its jurisdiction;

f. Protection and general regulation in ocean space of such activities exclusively for peaceful purposes as may be considered to be of vital international public interest;

g. Providing a mechanism for the effective access of technologically less developed countries to advanced marine technology relevant to their needs and for the transfer of such technology.

h. Promotion of scientific research in ocean space and establishment of an effective mechanism for associating scientifically less advanced countries in such research.

i. Providing to the international community such services in ocean space as may be considered necessary or desirable; inter alia, to sail vessels for rescue, scientific or other international community purposes.

18. Many of the proposed functions of the international institutions could, it is believed, be appropriately undertaken through regional bodies.

19. It is believed that it is of great importance either to consolidate existing U.N. bodies primarily dealing with questions concerning ocean space into the future international institutions for ocean space, or at least to coordinate their activities through the institutions in order to avoid bureaucratic proliferation, duplication of activities, inadequate or excessively complex coordination machineries at the international level.

20. The international regime should provide machinery for interdisciplinary discussion and decision-making involving, as far as possible, all users of ocean space and resources and including, in particular, science, industry and the service sector.

21. It is considered very important to stress that international law and practice concerning the legal responsibility of states and of the persons under their jurisdiction with regard to culpable activities which cause damage to other states in the marine environment must be considerably expanded and made more precise: in particular a course of action must be given to the international community through the international institutions with regard to deleterious activities in ocean space beyond national jurisdiction.

22. It is scarcely necessary to stress that no institutional system for ocean space would be complete without appropriate machinery for the compulsory settlement of disputes.

TRIBUTE TO CHAPLAIN JAMES E. ROGERS

Mr. THURMOND. Mr. President, Chaplain James E. Rogers of the Columbia, S.C., VA hospital was recently appointed Deputy Director of the VA Chaplains Service. I congratulate Chaplain Rogers and wish him well in his new post of duty.

An excellent article, which contains a biographical sketch of Chaplain Rogers, appeared recently in The Stars and Stripes—The National Tribune.

Mr. President, I am pleased to call this account to the attention of the Senate, and ask unanimous consent that the article entitled "Chaplain James E. Rogers New Deputy Director of VA Chaplains," which appeared in The Stars and Stripes—The National Tribune on December 6, 1973, be printed in the RECORD at the conclusion of my remarks.

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

CHAPLAIN JAMES E. ROGERS, NEW DEPUTY DIRECTOR OF VA CHAPLAINS

A well known Veteran, Chaplain James E. Rogers of the Columbia, South Carolina V.A. Hospital, has been appointed Deputy Director of Chaplains Service, Washington, D.C., by the Administrator of Veterans Affairs, the Honorable Donald E. Johnson.

In making this selection, the Administrator reached down into the ranks and selected a long time career Chaplain. Chaplain Rogers went with the VA while still on terminal leave after having served in World War II as a Chaplain for 40 months. The VA Chaplaincy was in its formative years when he served his first appointment at Wadsworth, Kansas. His 27 years of service in the V.A. also include Oteen, North Carolina, Atlanta, Georgia and for the past thirteen years at the Columbia VA Hospital.

Many veterans will remember "Chaplain Jim" when he served the Oliver General Hospital, one of his many hospital assignments during World War II.

While stationed at an army hospital in the Pacific, he was selected as the Armed Forces radio preacher for Sunday services for a period of six months.

"Chaplain Jim" has been very active in Veteran Affairs. He has held many responsible offices in the American Legion and the 40 and 8. When he received his promotion, he was Gran Chef de Gare of Voiture 1025 of Columbia, Grand Amonier of the State 40 and 8, and Chaplain of Post 6, Columbia. He has been active in the Disabled American Veterans both on a state and national level. He served for many years as State Chaplain and two years as National Chaplain of the Disabled American Veterans. Among his many other activities, he has served as a Wing Chaplain in the Civil Air Patrol.

Though he is known throughout the United States by veterans from all walks of life for his eloquent and forceful speeches at numerous Memorial Services, he is better known affectionately in the hearts of Veterans as just "Chaplain Jim."

Veterans organizations across America have honored him with many commendations. He has been cited by Congress on three occasions for his compassionate ministry to the Veterans of America. He was honored on two occasions by being asked to have the Memorial Prayer at Arlington Cemetery on Memorial Day. He was guest Chaplain for the opening prayer three times in the U.S. House of Representatives and once in the U.S. Senate.

Only those close to "Chaplain Jim" know that he is an author and poet—a writer of somewhat national distinction. His patriotic, historical prose and poetry have appeared in national journals and magazines. His most recent literary work, "A Gold Star Mother", has received national acclaim and has appeared in the Congressional Record.

Last year "Chaplain Jim" was selected as the Federal Employee of the Year for the Greater Columbia Area by the Executive Council of Columbia.

To those that know the life of Jim Rogers, it reads like a character in one of Horatio Alger's books. He was orphaned at the age of four and spent his formative years in a Methodist Children's Home.

After high school he attended Atlantic Christian College in Wilson, North Carolina on an athletic scholarship. He earned letters in basketball, baseball, track and tennis and was Captain of the basketball team and was selected all-conference guard.

He received his B.D. Degree from Duke University.

His only assignment by the church was Associate Pastor of the Central Methodist Church, Florence, South Carolina. While in Florence, he married the former Mildred McKeithen. The Rogers have four children: Mrs. E. L. (Anne) McWilliams of Tampa, Florida, Mrs. Randall (Patty) Dennis of Columbia, Miss Louise Rogers and James, Jr. also of Columbia.

"'Chaplain Jim' will assume his new duties December 2nd, and in behalf of all Veterans—to him our best wishes and God's richest blessings", said Col. John R. Taylor, Wing Commander, South Carolina Civil Air Patrol.

UNEMPLOYMENT AND THE ENERGY CRISIS

Mr. NELSON. Mr. President, I would like to call the attention of my colleagues, and of all those concerned with the effects of the energy shortage on the economy, to the hearings being held this week by my able and distinguished colleague from the State of Wisconsin, Representative HENRY REUSS, in his capacity as chairman of the Joint Economic Subcommittee on International Economics.

As chairman of the Subcommittee on Employment, Poverty, and Migratory Labor, I was particularly concerned by the testimony on the first day of those hearings. Herbert Stein, Chairman of the President's Council on Economic Advisors, and John Sawhill, Associate Director of the Office of Management and Budget and Deputy Administrator of the Federal Energy Administration, testified that unemployment would not go above 6 percent at any time in 1974. Such a rosy outlook for unemployment, with its implication of little or no economic distress, was predicted despite Stein's expectation of a shortage of 3.5 million barrels a day, or 17.5 percent of the total demand for energy, and despite his expectation of the continuation of the Arab embargo throughout 1974. Stein predicted that American economic stability would stem from "success of the present voluntary program for cuts in home heating fuel and private use of gasoline." The administration would be able to solve whatever unemployment problems that arise, according to Stein, simply by giving a bigger share to industry of fuel that might be "saved" by those voluntary measures.

Mr. President, I am appalled by the apparent reluctance of Mr. Stein and the other White House economic staff to admit to the potential economic disaster inherent in this national crisis. Other witnesses before the Joint Economic Subcommittee, from outside the Government, were not nearly so optimistic as were the President's advisers.

Dr. Anne Carter, of the Brandeis Department of Economics, testified that even if the shortage is as low as 12 percent, unemployment could go up as much as 3 percent during 1974. If the shortage is as high as 20 percent, Dr. Carter considers an unemployment rate of 10 percent well within reason.

Even more alarming was the testimony of economic analysts from the Arthur D. Little Co., because their research was done at the request of the petrochemical industry itself, to enable that industry to assess the impact of the shortage on its own economic outlook. Using an arbitrary figure of a 15-percent cutback in petrochemical industry output due to shortages, the Arthur D. Little analysts estimated a loss of 1.6 to 1.8 million jobs in the consuming industries and loss of domestic production value of from $65 to $70 billion annually. Industries that consume petrochemical products cut a broad swath across industrialized America. They include industries that produce clothing, automobiles, soap and other toilet preparations, fabricated plastics, fertilizers, and other agricultural chemicals, furniture, paint, and medicine. A 1.8-million-job decline in those industries alone would comprise an increase of more than 2 percent in the rate of unemployment, which currently stands at 4.7 percent. And the effects of such a decline upon other areas of the economy would be equally catastrophic.

Why is it, then, that our President's advisers continue to refuse to take seriously the estimates of an ever-increasing number of private and public analysts? Simply giving enough fuel to industry is not going to solve any problems if the fuel just is not available. It is high time for this administration to get its head out of the economic sand.

Mr. President, I ask unanimous consent that the Arthur D. Little study, "U.S. Petrochemical Industry Impact Analysis," be printed in the RECORD.

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

U.S. PETROCHEMICAL INDUSTRY IMPACT ANALYSIS—A REPORT TO THE PETROCHEMICAL ENERGY GROUP

ARTHUR D. LITTLE, INC.,
November 1973.

I. SUMMARY

The current shortages of oil and gas in the United States have forced the Federal Government to implement a Mandatory Fuel Allocation Program, a Mandatory Allocation Program for Propane, and to supervise an expanding level of curtailments in natural gas supplies to interstate pipelines. These shortages will have a significant impact on the whole economy and the petrochemical industry as a major consumer of oil and gas hydrocarbons will be directly affected. However, the impact on this industry and its customers will be significantly greater than on other industries because these hydrocarbons are used not only as fuel but also as the primary raw materials or feedstocks for this business.

As a result of the current shortages, it is not unrealistic to expect that petrochemical production will decline in the near future. To assess the impact of a decline in petrochemical production on the nation's economy as a whole, the Petrochemical Energy Group (PEG) asked Arthur D. Little, Inc. (ADL) to develop an estimate of the effect of a 15% decline in the organic chemicals industry on consuming industries. Through the use of input-output economic analysis, ADL estimates that a sustained 15% reduction in the output of the organic chemicals industry could result in a loss of 1.6 to 1.8 million jobs consuming industries and a loss of domestic production value of $65–$70 billion annually.

While our analysis assumes a decline in production of 15%, it is difficult at this time to anticipate just how extensive a decline will actually result from the current allocation and curtailment programs. Should these programs not provide for the feedstock and process fuel needs of the petrochemical industry, its output will be reduced with the effects cascading throughout the economy.

II. INDUSTRY IMPACT ANALYSIS

To evaluate how a sustained 15% reduction in the output of the U.S. organic chemicals industry will impact on the U.S. economy requires an analytical framework that is a balanced, internally consistent model of the U.S. economy which identifies this sector of the chemical industry and defines its relationship to primary, secondary, and final demand markets. Input/Output economic models have this capability and Arthur D. Little, Inc., uses this type of model in its economic forecasting and regional impact analysis work. The effects developed in this report reflect the current relationships that exist within the ADL Input/Output model based on the Input/Output table originally developed by the U.S. Office of Business Economics for 1963 which has been revised, expanded, and updated by ADL.

A. Background on input/output models

Input/Output analysis focuses on the interaction of all industries in producing our gross national product. Each row of an Input Output table identifies the interindustry sales structure of the economy by depicting the sales of a particular industry to each of its industrial customers, as well as to final markets.

Although Input/Output analysis has a variety of applications, its major contribution is that it permits measurement of the industrial repercussions of changes in demand levels or production activities. For example, the Input/Output technique allows one to estimate the total impact upon various sectors of the economy of an increase in the demand for passenger cars. This increase in demand will lead to an increase in the output of the automobile industry. However, there will be further impacts. The automobile industry will demand more upholstery fabrics and the increased production of these fabrics will require more synthetic fibers and more plastics. The use of Input/Output techniques allows one to quantify the magnitudes of the increased production in all affected industries.

In like fashion, the Input/Output methodology can be used to identify the impact of a reduction in the output levels of particular raw material suppliers on the level of production in related final end-use markets. By transforming the Input/Output matrix, one can obtain production multipliers which indicate how a change in demand in a final user market will impact upon all industries in the economy. By identifying the ultimate end-use markets for a particular raw material, one can utilize these production multipliers to estimate the resultant impact upon the economy from a cutback in the production in a given sector.

B. Impact of the petrochemical industry

The U.S. petrochemical industry takes certain petroleum fractions, natural gas, and natural gas liquids, and transforms them into a wide variety of man-made materials. The production of the basic chemicals and many intermediate products is typically classified in government statistics within the Standard Industrial Classification for Organic Chemicals (SIC 2818). These intermediates are then sold to other sectors of the Chemicals and Allied Products industry for conversion to such products as synthetic fibers, plastics, synthetic rubber, detergents, and paints. In turn, the fibers, plastics and rubbers are fabricated into end products used in thousands of consumer products.

Although other hydrocarbon source raw materials have been used by the Organic Chemicals industry, this industry today is more than 95% dependent on hydrocarbons from petroleum and natural gas. Thus, a reduction in the amount of feedstocks available to the industry will be translated directly to a loss in physical output of the industry.

For the purposes of this analysis we have assumed that a reduction in feedstocks and fuel supplies will be distributed evenly throughout the industry affecting the output of all products equally.

If petrochemical output is reduced by no

more than about 5%, imports of primary and intermediate organic chemicals might mitigate the effects of a decline in the output of primary petrochemicals. However, this would reduce or eliminate the favorable $1.3 billion annual balance of trade in petrochemicals. If industry output were reduced by more than 5%, the current worldwide shortage of primary petrochemicals and intermediates would limit the ability of consuming industries to secure supplies abroad. The use of substitute materials might also mitigate the effects on lost production and employment. However, given the current tightness of supplies for most basic commodities, it is unlikely that adequate quantities of substitute materials will be available.

Every effort has been made in this analysis to eliminate double counting which could result from two industry sectors supplying the same final market. For example, plastics, fabrics, and tires supplied to the automotive industry are all derived from petrochemicals and the full impact could be attributed to any one of these primary market sectors. In this case the impact was determined in the plastics sector and not included in the synthetic fiber and synthetic rubber calculation.

The results of our basic impact analysis are summarized in Table 1. A review of the results of our basic impact analysis (Tables 2–6) indicated that there were several special factors that must be taken into account in reaching a conclusion regarding the magnitude of the impact of a 15% decline in the production of organic chemicals. These factors include:

Inflation—In our basic analysis, the data on value shipments and employment has been taken from the 1970 Annual Survey of Manufactures. Our analysis did not include an upward adjustment in the value of lost production to account for price movements in each of the industries included for the 1971–1973 period. Based upon an annual average rate of increase in the GNP-deflator of 4.3% during this period, the value of lost production would need to be increased more than $8.7 billion to reflect current (1973) price conditions.

Incomplete coverage—Our basic analysis concentrated upon estimating the impact upon major end-use markets. This procedure omits, therefore, consideration of the impact on several relatively smaller markets such as the paper and non-ferrous wire coating industries for plastics, the rug industry for synthetic fibers, and non-automotive rubber products for synthetic rubber. A more detailed review of these other markets indicates the impact of lost production would increase by another $7.0 billion and an additional 175,000 jobs would be lost.

Non-Linear Effects.—The Input/Output methodology employed in our analysis implicitly assumes linear relationships between inputs of particular commodities and production in consuming industries. For most industries in the U.S. economy, such an assumption is acceptable since many production functions are approximately linear with respect to material inputs. However, in the case of crop production, this linearity assumption is not valid regarding crop yield in response to fertilizer and pesticide inputs.

At current levels of usage in the U.S., a reduction in the level of application of nitrogen fertilizers would not result in a directly proportional reduction in crop yield. A similar situation would also apply to the reduction in the use of insecticides and herbicides. We estimate that a reduction of 15% in the use of nitrogen fertilizers and pesticides would probably result in a reduction of agricultural output of approximately 5%. This relationship is generally supported by statistical data on increases in yield, and in total agricultural output of the major crops, and usage of nitrogen fertilizer.

To adjust for this non-linear relationship, we have reduced our estimate of the impact upon production in the food processing industry by two-thirds. This adjustment has the effect of reducing the lost production value in our basic analysis by more than $13.0 billion.

On balance, these special factors add $2.5 billion of additional lost production to our basic impact analysis or less than a 5% upward adjustment. As a result, we conclude the probable range of the total economic impact of a sustained 15% reduction in the production of organic chemicals will be an annual loss in production of $65–$70 billion and a loss of 1.6–1.8 million jobs.

TABLE 1.—SUMMARY, IMPACT OF A 15 PERCENT DECLINE IN PRODUCTION OF ORGANIC CHEMICALS

Item	Loss in production value (millions)	Loss in employment (thousands)
A. Basic analysis:		
1. Organic chemicals	$1,100	15
2. Primary markets for organic chemicals	3,910	71
3. Final market for organic chemicals	67,270	1,804
B. Special factors:		
4. Inflation (1970–73)	+8,750	
5. Incomplete coverage (plastics, fibers, rubbers)	+7,030	+175
6. Nonlinearity effects	−13,200	−330
7. Net effect	+2,580	−155
Adjusted total	[1] 69,850	[2] 1,735
C. Probable range of impact	65,000–70,000	1,600–1,800

[1] Sum of 3 and 7.
[2] Sum of 1, 2, 3, and 7.

Sources: 1970 Annual Survey of Manufactures, 1963 input-output table, ADL input-output model.

TABLE 2.—IMPACT ANALYSIS—SUMMARY: 15 PERCENT DECLINE IN PRODUCTION OF ORGANIC CHEMICALS

Market	Annual loss in production value (millions)			Loss in employment (thousands)
	Primary market	Secondary market	Final market	
Plastics	$645			11
Fabricated plastics		$1,050		43
Final markets			$28,250	700
Synthetic fibers	425			10
Fabrics and yarns		2,675		70
Final markets			4,390	110
Synthetic rubber	150			2
Tires		690		15
Final markets			580	15
Agricultural chemicals	130			2
Final markets			19,775	495
Medicinals and pharmaceuticals	980			18
Final markets			1,130	28
Soaps and detergents	450			5
Final markets			515	13
Paint	510			11
Final markets			6,000	150
Toilet preparations	520			8
Final markets			600	15
Cellulosic fibers	100			4
Final markets			6,030	150
Subtotal	3,910		67,270	1,875
Organic chemicals	1,106			15
Total, final market impact			67,270	1,890

Note: Every effort has been made to avoid double-counting by including the impact upon a particular final market only once in our estimates, although a final market may purchase materials from more than one sector. For example, plastics, fibers, and rubbers all are used in automobiles, but the impact on the auto industry has been included only once under the plastics sector.

Sources: 1970 Annual Survey of Manufactures, 1963 input-output table, ADL input-output model.

TABLE 3.—IMPACT ANALYSIS, 15 PERCENT DECLINE IN PRODUCTION OF ORGANIC CHEMICALS

	Amount Millions
1. 1970 value of shipments, organic chemicals (Sic 2818)	$7,373
2. 15 percent reduction in (1)	1,106

	Percent of organic chemical sales	Decline in consumption of organic chemicals (millions)
3. Distribution of organic chemical sales:		
(a) Plastics	30	$332
(b) Organic fibers	14	155
(c) Agricultural chemicals and food processing	8	88
(d) Medicinals and pharmaceuticals	4	44
(e) Soaps and detergents	4	44
(f) Synthetic rubber and tires	6	66
(g) Paint	3	33
(h) Toilet preparations	2	22
(i) Cellulose fibers	2	22
Total	73	806

	Factor	Annual loss in production (millions)	Loss in employment (thousands)
4. Impact of above declines in organic chemical production on:			
(a) Plastic resins, final markets (see table 4)		$28,250	700
(b) Synthetic fibers, final markets (see table 5)		4,390	110
(c) Agricultural chemicals and food processing:			
(1) 1970 value of shipments, agricultural chemicals (SIC 2879)		858	
(2) 15 percent reduction in (1)		128	2
(3) 15 percent reduction in food processing (SIC 20)		14,647	
(4) Output multiplier for food processing	1.35		
(5) Decline in shipments in all other sectors		19,773	495
(d) Medicinals and pharmaceuticals:			
(1) 1970 value of shipments, medicinals and pharmaceuticals (SIC 2833, 2834)		6,556	
(2) 15 percent reduction in (1)		983	18
(3) Output multiplier for medicinals and pharmaceuticals	1.15		
(4) Decline in shipments in all other sectors		1,130	28

TABLE 3.—IMPACT ANALYSIS, 15 PERCENT DECLINE IN PRODUCTION OF ORGANIC CHEMICALS—Cont.

	Factor	Annual loss in production (millions)	Loss in employment (thousands)
4. Impact of above declines—Cont.			
(e) Soaps and detergents:			
(1) 1970 value of shipments, soaps and detergents (SIC 2841)		$2,989	
(2) 15 percent reduction in (1)		448	5
(3) Output multiplier for soaps and detergents	1.15		
(4) Decline in shipments in all other sectors		515	13
(f) Synthetic rubber and tires (see table 6)		583	15
(g) Paint:			
(1) 1970 value of shipments, paint (SIC 2851)		3,408	
(2) 15 percent reduction in (1)		511	11
(3) 15 percent reduction in maintenance		7,500	
(4) Output multiplier for maintenance	0.8		
(5) Decline in shipments in all other sectors		6,000	150
(h) Toilet preparations:			
(1) 1970 value of shipments, toilet preparations (SIC 2844)		3,461	
(2) 15 percent reduction in (1)		519	8
(3) Output multiplier for toilet preparations	1.15		
(4) Decline in shipments in all other sectors		597	15
(i) Cellulose fibers:			
(1) 1970 value of shipments, cellulose fibers (SIC 2823)		685	
(2) 15 percent reduction in (1)		103	4
(3) 15 percent reduction in rugs, tire cord, etc		3,350	
(4) Output multiplier for rugs, tire cord, etc	1.8		
(5) Decline in shipments in all other sectors		6,030	150

	Annual loss in production value (millions)	Loss in employment (thousands)
Total impact:		
Organic chemicals	$1,106	15
Primary markets	3,910	71
Secondary markets in fibers, rubbers and plastics	4,415	128
Final markets for organic chemicals	67,270	1,676
Total		1,890

Note: Every effort has been made to avoid double-counting by including the impact upon a particular final market only once in our estimates.

Source: 1970 Annual Survey of Manufactures, 1962 input-output table, ADL input-output model.

TABLE 4.—IMPACT ANALYSIS, 15 PERCENT DECLINE IN PRODUCTION OF PLASTIC RESINS

	Factor	Amount (millions)
1. 1970 value of shipments, plastic resins (SIC 2821)		$4,286
2. 15-percent reduction in (1)		643
3. Percent of plastic resin shipments to nonintegrated plastic fabrication (SIC 3079)	41	
4. Reduction in plastic resin sales to plastic fabrication: (2)×(3)		264
5. 1970 value of shipments, plastic fabrication		6,993
6. Value of plastic resin consumed by plastic fabrication: (3)×(1)		1,757
7. Less reduction in plastic resin availability: (4)		264
8. Net shipment of plastic resin to plastic fabrication: (6)—(7)		1,494
9. Therefore, value of shipments, plastic fabrication: (5)×(8)—(6)		5,944
10. Net decline in shipments of plastic fabrication: (5)—(9)		1,049
11. Major end-use markets for plastic fabrication		

	Factor	Shipments (millions)	Annual loss in production value (millions)
Percent of shipments:			
2.5 percent—upholstery:			
1. 1970 value of shipments		$5,080	
2. 15 percent reduction in (12)		762	
3. Output multiplier	1.5		
4. Decline in shipments in all other sectors			$1,143
8.4 percent—furniture:			
1. 1970 value of shipments		8,967	
2. 15 percent reduction in (14)		1,345	
3. Output multiplier	1.6		
4. Decline in shipments in all other sectors			2,152
8.4 percent—motor vehicles:			
1. 1970 value of shipments		45,692	
2. 15 percent reduction in (16)		6,854	
3. Output multiplier	1.4		
4. Decline in shipments in all other sectors			9,595
7.4 percent—construction:			
1. 1970 value of production		77,255	
2. 15 percent reduction in (18)		11,588	
3. Output multiplier	.8		
4. Decline in shipments in all other sectors			9,270
8.3 percent—packaging:			
1. 1970 value of shipments		41,600	
2. 15-percent reduction in (20)		6,237	
3. Output multiplier	1.0		
4. Decline in shipments in all other sectors			6,237
7.2 percent—miscellaneous manufacturing:			
1. 1970 value of shipments		9,767	
2. 15-percent reduction in (22)		1,465	
3. Output multiplier	.9		
4. Decline in shipments in all other sectors			1,319

	Annual loss in production (millions)	Loss in employment (thousands)
Total impact:		
Plastic resins	$643	11
Fabricated plastics	1,049	43
All other industries	28,251	700
Total		754

Sources: 1970 annual survey of manufactures, 1963 input-output table, ADL input-output model.

Note: Every effort has been made to avoid double-counting by including the impact upon a particular final market only once in our estimates.

TABLE 5.—IMPACT ANALYSIS, 15 PERCENT DECLINE IN PRODUCTION OF SYNTHETIC FIBERS

	Factor	Amount (millions)
1. 1970 value of shipments, synthetic fibers (SIC 2824)		$2,822
2. 15 percent reduction in (1)		423
3. Percent of synthetic fibers shipments made to fabrics/yarn industry (SIC 221, 222, 223, 224, 226, 228)	60	
4. Reduction in synthetic fiber sales to fabrics/yarn industry: (2)×(3)		254
5. 1970 value of shipments, fabrics/yarn		17,699
6. Value of synthetic fibers consumed by fabrics/yarn industry: (3)×(1)		1,681
7. Less reduction in synthetic fiber availability: (4)		254
8. Net shipment of synthetic fiber to fabrics/yarn: (6)—(7)		1,427
9. Therefore, value of shipments, fabrics/yarn: (5)×(8)=(6)		15,025
10. Net decline in shipments, fabrics/yarn: (5)—(9)		2,674
11. Output multiplier for fabrics/yarn (net)	1.8	
12. Decline in shipments in all other sectors: (10)×(11)		4,815
13. Net decline in shipments in all other sectors: (12)—(2)		4,392

Total impact:	Annual loss in production (millions)	Loss in employment (thousands)
Synthetic fibers	$423	10
Fabrics/yarn	2,674	70
All other industries	4,392	110
Total		190

Note: Every effort has been made to avoid double-counting by including the impact upon a particular final market only once in our estimates. For example, synthetic fiber sales to upholstery or tire manufacturers have been excluded because the impact for these industries has been calculated elsewhere in this analysis.

Sources: 1970 Annual Survey of Manufactures, 1963 input-output table, ADL input-output model.

TABLE 6.—IMPACT ANALYSIS, 15 PERCENT DECLINE IN PRODUCTION OF SYNTHETIC RUBBER

	Factor	Amount (millions)
1. 1970 value of shipments, synthetic rubber (SIC 2822)		$992
2. 15 percent decline in (1)		149
3. Percent of synthetic rubber shipments made to tire industry	45	
4. Reduction in synthetic rubber sales to tire industry: (2)×(3)		67
5. 1970 value of shipments, tires (SIC 3011)		4,587
6. Value of synthetic rubber consumed by tire industry: (3)×(1)		445
7. Less reduction in synthetic rubber availability: (4)		67
8. Net shipments of synthetic rubber to tire industry: (6)—(7)		378
9. Therefore, value of shipments of tire industry: (5)×(8)÷(6)		3,896
10. Net decline in shipments of tires: (5)—(9)		690
11. Output multiplier for tires (net)	1.06	
12. Decline in shipments in all other sectors: (10)×(11)		731
13. Net decline in shipments in all sectors: (12—(2)		583

	Annual loss in production (millions)	Loss in employment (thousands)
Total impact:		
Synthetic rubber	$149	2
Tire shipments	690	15
All other industries	583	15
Total		32

Note: Every effort has been made to avoid double-counting by including the impact upon a particular final market only once in our estimates. For example, tire sales to the auto industry are excluded because the impact for the auto industry has been calculated elsewhere in this analysis.

Sources: 1970 Annual Survey of Manufacturers, 1963 input-output table, ADL input-output model.

SENATOR BENTSEN'S ADDRESS TO THE WORLD AFFAIRS COUNCIL OF PHILADELPHIA

Mr. McGEE. Mr. President, last night my distinguished colleague, the junior Senator from Texas (Mr. BENTSEN), addressed the World Affairs Council of Philadelphia.

I was very impressed with his observations on international affairs in general and United States-Latin American affairs in particular. I sincerely believe that Senator BENTSEN has made an invaluable contribution to the debate on international relations with his very substantive and poignant observations.

I could refer to some portions of his speech which would demonstrate his farsightedness on the issues with which he dealt. However, in reading his remarks, I felt the entire text was a demonstration of the excellent and far-reaching grasp he has on international matters.

I commend my distinguished colleague for his excellent presentation and urge all in this body to give serious consideration to his remarks.

I ask unanimous consent that his speech be printed in the RECORD.

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

ADDRESS BY HON. LLOYD BENTSEN

I am honored to be with you today and I welcome the opportunity to share with you my concern about a neglected aspect of our foreign policy.

It is a paradox of this age, in which technological achievements have outstripped human insights, that we can travel in outer-space to explore "the dark side of the sun" and "the dark side of the moon" while there are "dark" sides of our own planet that remain virtually unknown to us earth-bound mortals.

We are ignorant of dramatic events within our own hemisphere that can affect our daily lives for years to come.

Unfortunately, we have not approached foreign affairs with the global perspective that is the gift of the astronauts. Our foreign policy has been fragmented and piecemeal. Our attention shifts from one trouble spot to another—always to the neglect of other areas, where time does not stand still.

It is difficult to criticize our foreign policy when we have a new Secretary of State whose performance has been universally hailed in superlatives. And I don't deny Secretary Kissinger any of these tributes. I join with fellow Americans in applauding his achievements: In Paris and Vietnam, in Peking and Moscow, and in the explosive Middle East.

It would be difficult to ask more of any one man.

But I am sure Secretary Kissinger would be the first to agree on the need to see the globe whole, with all its interrelated parts in perspective.

It is time to stop shifting the emphasis of our foreign policy with each change of the political winds.

It is time to scrap sloganeering as a substitute for policy.

We can move from the Year of Europe to the Age of Asia—and, I suppose, on to the Afternoon of Africa—without accomplishing much more than providing good headline copy.

Meanwhile, events continue to move in other parts of the globe. When these events explode into crisis, we turn our attention to the neglected area in an attempt to patch up the damage that was done while our backs were turned.

A prime example is our neglect of Latin America—the home of 270 million people, with the fastest growing population in the world. At the present rate, its population will reach 600 million by the end of this century. By all forecasts, the United States by that time will have only half as many people as Latin America—but ten times the wealth.

And already the impoverished masses of Latin America are restless with the hopes and expectations of a better life. Few of these expectations are being met. Too many dreams are being deferred.

Sol Linowitz, our former ambassador to the Organization of American States, once said: "Coffee, sugar, and cocoa may be breakfast foods in the United States, but in Latin America . . . they are the staff revolutions feed on."

Our backs have been turned on Latin America for too long.

From the time of the Monroe Doctrine, 150 years ago, we have viewed Latin America as our own special preserve. We have come to take it for granted. In recent years, we have lost track of what Latin America means to us, not just strategically and economically, in terms of trade and raw materials, but as a hemispheric neighbor and a growing member of the community of nations, with problems and potentials we cannot afford to ignore.

The Good Neighbor Policy and the Alliance for Progress are now little more than slogans of the past. The slogan for today might well be summarized in the headlines: "Leftovers for Latin America."

But there are no such headlines. Reporting from Latin America is minimal—perhaps because public interest is minimal. And so we have the unbroken pattern: lack of interest results in lack of information, and vice versa.

Little has been done, by all the combined media for education, to dispel our widespread ignorance of the history and problems of Latin America. Although there are almost 9 million people in the United States now who have ethnic and linguistic ties to Latin America, how much do we really know about our neighbors to the south?

Our children grow up unable to communicate with Spanish-speaking neighbors just across the border or—or, in many cases, just across the street. They grow up with little awareness of the "other" Americans who share this hemisphere with us. Their history books tell them of the early explorations of the Spanish— and after that the entire South American continent sinks out of sight, like the Lost Atlantis.

Our study of history and politics is weighted heavily in the direction of Europe, which, although more remote geographically, is closer to us by kinship. After all, the roots of our past are mainly in Europe.

But what of the future?

We live in an age of unparalleled change, and the habits of the past will not suffice for the challenges of the future. In Latin America, challenges abound, beginning with poverty, illiteracy, hunger, high birth rates and high mortality rates. There is the challenge of massive unemployment in an area where the tools for economic development are limited. There is the challenge of attracting capital to establish basic industries, to catch up with the technologically advanced world, and to build markets essential to a healthy economy. A further challenge lies in the need for land reform and agricultural modernization.

All these are challenges to the continent's ability to develop. But are these *our* challenges? What have they to do with us?

Simply this: Any threat to peace and stability in one part of the world threatens peace and stability everywhere. The future stability of the Western Hemisphere will depend on how effectively the Latin countries deal with their staggering problems.

So the question becomes: Can we continue to ignore our Latin neighbors?

Can we continue to exclude them from our policy considerations while we court the favor of China and Japan, Russia and the countries of Western Europe?

This may not be the intent of our foreign policy, but it has been the effect. Our closest neighbors feel alienated, left out of the total picture.

The geographical proximity of Latin America has inspired a misleading concept of "Pan-Americanism" which conceals formidable language and cultural barriers. These barriers are heightened by new political and economic trends and by rapidly developing problems that have created points of friction between us—problems that are not necessarily of our making, but for which we have offered no real solutions.

One obvious point of friction is Cuba. Here we have a perfect example of the need for a global approach. To understand the tensions that have developed over our Cuba policy, we have to look also at our China policy, and our relationship to the Communist world.

Latin America—more than any other region—has followed our lead on Communism. For more than two decades, it gave loyal support to our efforts to isolate China, and in spite of growing misgivings, cast its solid bloc of 20 votes to exclude Communist China from the United Nations.

Likewise—and again with growing misgivings—it has backed our policy of boycotting Cuba and denying it membership in the OAS.

But our sudden reversal of policy in China left the Latin countries out on a limb. Naturally, they are disconcerted. Naturally, they suspect that we could just as easily do an aboutface toward Cuba, leaving them in the humiliating position of having to follow our initiative rather than their own instincts. And so we have chipping away of the OAS blockade of Cuba and an increasing trend toward establishing diplomatic and economic ties with Cuba in the face of a U.S. policy of isolation.

Another trend is the developing flirtation—both diplomatic and economic—between Latin America and the Communist countries, which threatens to undercut our influence. In view of changing alignments, this should not be surprising. But it has disturbed the comfortable status quo.

Another new trend I detect is the increasing competition of Japanese and European investment in Latin America, and more and more favoritism toward Europe and Japan as major sources of imports, rather than the United States. We are uneasy about losing what we consider our share of the Latin market, and we view with suspicion—if not alarm—European and Asian efforts to preempt that market.

The Latins, for their part, resent the domination of their economy by United States investors and there has been created a climate of uncertainty by foreign investment regulations and restrictions.

The Canal Zone remains a friction point. The bitterness in Panama over U.S. sovereignty within the Canal Zone is shared in varying degrees by her neighbors.

Another problem which we fail to sufficiently recognize as tension-producing is the widening technology gap between the United States and Latin America. We live in a nuclear age; they do not. They fear and distrust our sophisticated weapons systems and our power of mass destruction.

Underlying all these tensions and related to the technology gap is the terrible disparity in living standards, to which we are not sufficiently sensitive. Barbara Ward has described the gap between the haves and the have-nots as "the most tragic and urgent

problem of our day." Its urgency lies in its potential for political unheaval.

Having reviewed some of the major problems and trends—in mere outline form, as the limitation of time demands—let us turn our attention to possible solutions.

First, we need to open and maintain a dialogue with Latin America to agree on common goals for both continents and to make the necessary commitments to achieve these goals.

Statements of good intentions are not enough. Reiteration of tired old slogans is not enough. What we need is a new beginning—and we must begin at the top.

When President Nixon was inaugurated in 1969, he made an auspicious beginning by talking about what our policy in Latin America should be. That turned out to be the last landmark of presidential interest in the area. Words have not been followed by action or commitment.

Too much time has elapsed now since President Nixon announced his intention to visit Latin America before the end of the year. The year is ending, and it is obvious that Mr. Nixon's agenda is occupied with other matters.

Too much time has elapsed since Secretary of State William Rogers remarked, in a speech last summer, that a new policy toward Latin America is long overdue. Today it is even longer overdue.

The new Secretary of State announced several weeks ago that there would be new initiatives in Latin America. That was a welcome statement, and I sincerely hope that these initiatives are forthcoming—and soon. But my hopes are tempered by the knowledge that Secretary Kissinger is the one who has placed such strong emphasis on The Year of Europe, which has been dismally unproductive.

Nevertheless, I think we can anticipate that he and the President will be holding summit conferences in Europe—as well as in Asia and Africa.

If they meet with the Chinese, the Russians, the leaders of Europe and the leaders of the Middle East—then why not a summit meeting with our closest neighbors? They deserve a place in our foreign policy considerations. And they deserve, incidentally, to be briefed on the new initiatives in our foreign policy so that they are not operating in the dark.

Such a meeting could do much to dispel their distrust of our new-found friendship in the Communist world, and their resentment over being taken for granted.

Second, we need to develop a policy of "aid through trade" in Latin America.

During the euphoric Sixties, we offered foreign aid as a hopeful panacea from all the ills of the developing nations. That kind of aid is no longer feasible for our own point of view, nor always desirable from the recipients' point of view. It encourages dependence rather than interdependence. It engenders the suspicion that we are trying to buy friendship.

Now it is time to think of trade as a means of development which is mutually advantageous.

For years the U.S. has talked about generalized trade preferences for the developing countries. Such a proposal is included in the new trade bill which is now before the House of Representatives. I am hopeful that—finally—action will replace verbiage and Latin America will get the trade preferences it so urgently needs. This will assist in accelerating Latin America's development and thereby provide expanded markets for U.S. goods. In the past Latin America has bought about $5 billion in goods from us every year and under normal conditions that amount could be expected to grow to at least $7 or $8 billion by the end of this decade.

Third, we need to clarify the role of private investment in Latin America, as well as the role of multinational corporations.

At present, U.S. private investment in Latin America, with a book value of $13 billion, brings us a return of nearly $2 billion a year in profits and royalties. This is a significant element in our own economy as well as in the economic development of countries needing the capital that American business can provide.

But it has been a far from satisfactory relationship.

Resentment has smoldered in Latin countries over the domination of U.S. investors and their political influence in the countries where they operate, the most notable examples being Cuba and Chile. As a result of increasingly negative attitude toward U.S. investors, some nations have imposed higher taxes on corporate enterprise and restrictions on U.S. companies and investments, and there have been instances of nationalization of U.S. companies without appropriate compensation.

This has not always worked to the advantage of the local economy. It has discouraged investment and deprived the area of goods and services and technical expertise which are needed for its development.

It is time to re-examine these policies. It is time for us to get together with the Latin American countries and formulate a code of conduct for responsible international companies, setting forth the rights and responsibilities of a company in the country where it operates, and making clear provisions for the resolution of disputes.

With this understanding, a U.S. company could, in good conscience, call on the American government for assistance when it has a legitimate complaint. At the same time, the United States could insist that U.S. companies fulfill their obligations to their host country.

Fourth, we should welcome, even encourage, the flow of investment into Latin America from other nations of the world.

We can be confident that this will happen, with or without our encouragement; foreign investors, most notably the Japanese, are finding attractive opportunities in Latin America. We need not fear that their presence will erode our position of leadership. Rather, it will help moderate the problems and ease the tensions created by foreign investment. The developing nation will learn that all foreign investment behaves in substantially the same way. And the development of consortia for major investments will reduce the risk of political attack based on "invasion of sovereignty."

So it is in our own interest to see Latin America develop multilateral economic relations with the rest of the world in order to bring in more aid and investment from other developed countries and open up markets abroad for her products.

This would make the Latin countries less dependent on the United States for aid flows and less susceptible to U.S. economic policy.

Fifth, we need to establish ourselves in the role of Good Neighbor rather than Big Brother.

This calls for increased sensitivity on the part of government and business.

We must not dictate programs to the Latins. Rather, we must respond to their needs—not as we see them, but as the Latins themselves perceive them and evidence them by their own initiatives. This kind of enlightened attitude is essential to counteract antipathy toward foreign capital and to stem the rising tide of nationalism.

Rather than fear nationalism, we need to recognize it is a necessary ingredient for real economic and social progress. We must then reconcile our corporate policies and activities with the legitimate objectives of nationalism.

Sixth, we should enlist the corporation of United States industry in providing further training capability to Latins to help close the technological gap. This is important to promote economic growth and to reduce widespread unemployment and underemployment.

Finally—and this is by no means the least significant step, politically, economically, and psychologically—we should move toward normalizing relations with Cuba.

In view of our new attitude toward the Soviet Union and the People's Republic of China, consistency demands a similar posture toward our closest neighbor.

If we learned anything from our experience with Communist China, we learned that twenty years of non-communication and isolation handicapped us as well as the Chinese.

We learned that we cannot afford to live in ignorance of any other nation in this shrinking world.

We cannot afford to close our eyes and our minds to the existence of any nation simply because we do not fully support its policies

Clearly, we have more to gain from talking with people than from ignoring them.

Improving relations with Cuba would be symbolic of a new political maturity in the United States; of a new willingness to respect differences among peoples; and of a new realization that Latin America is seeking to fulfill its own destiny in its own way.

As the people of Latin America strive toward this goal, they need our cooperation, our commitment, and our support.

We have given that support in the past—but it has not been consistent.

A decade ago, the Alliance for Progress was hailed as one of the promising initiatives of the Kennedy Administration. But now the Alliance for Progress has been superseded by a policy of noninvolvement. Now, when the need for cooperation and coordination of effort is greater than ever, we seem to be pulling away from the Latins.

Ironically, the hopes and dreams of the Alliance were abandoned just when it was managing to achieve a real per capita growth averaging 2.4% annually. Despite its admitted failures and shortcomings, the Alliance did spark the development of important public works projects and social programs—with the bulk of the capital provided by the Latins themselves. And it did provide evidence of our willingness to make a commitment to our hemispheric neighbors.

It is time to renew that commitment.

It is time to view Latin America in the context of a global foreign policy.

I am not recommending a shift of emphasis from one hemisphere to another, or from one continent to another.

What I am recommending is a balanced view of international affairs, with all the new realities and all the interrelationships of diverse nations and cultures.

We have the opportunity to reassert our role as good neighbor to a continent that is threatened with instability; overwhelmed by problems of widespread poverty and illiteracy, soaring birthrates, rampant disease and high mortality rates. And I *am* recommending that we take advantage of that opportunity.

If we can demonstrate our capacity to work with the Latins—our nearest neighbors—in a spirit of true partnership, we will have laid the foundation for dealing with similar problems elsewhere.

We have at our door an opportunity to establish a precedent for international cooperation.

It is an opportunity we cannot afford to lose.

WHALES AND FISHERY PROTECTION

Mr. PELL. Mr. President, today, the Japanese whaling fleet, in defiance of world opinion, is scheduled to sail for Antarctica to open another season of killing and decimation of the world's whale population, an invaluable asset of the common heritage of man. For some dangerously dwindling species of whale, this decimation may be irreversible. The ships of the Soviet Union unfortunately are also expected to join in this murderous hunt.

At this moment, too, foreign factory ships are literally vacuuming the fishing banks of the seven seas, threatening to deplete the world food fish stocks. This destructive practice is striking the New England fisheries a particularly hard blow. For example, in both the Atlantic and Pacific, the halibut has practically disappeared as a source of protein-rich and delicious table fish.

This reckless disregard for reasonable conservation measures to assure the replenishment of fish stocks and the continued existence of marine wildlife species, especially the whales, dolphins, seals, and other ocean mammals, calls for urgent action aimed at helping to prevent an economic and ecological catastrophe.

In addition to this critical problem, I would like to comment on the pressing plight of the whale. In recent years, the United States has taken a number of actions demonstrating its concern for the protection and conservation of world whale stocks. In 1970,the Secretary of the Interior placed the eight major species of great whales on the endangered species list pursuant to the Endangered Species Act of 1969. This action brought into effect in December of 1971, a prohibition on the importation into the United States of whale products. Again in 1971, the Secretary of Commerce announced that after the 1971 whaling season, no further licenses would be issued to U.S. nationals to take whales for commercial purposes.

During this period, both the House and the Senate adopted resolutions urging a 10-year moratorium on all commercial whaling and, in 1972, a U.S. recommendation calling for a moratorium on the commercial killing of whales was overwhelmingly adopted by the United Nations Conference on the Human Environment. This vote was confirmed again in 1973 at the first session of the United Nations Governing Council for Environmental programs. We can, indeed, be proud of our record in a world effort to save the whales.

Despite this display of worldwide concern, the International Whaling Commission—(IWC—has been disappointingly unresponsive. In 1972 and 1973, the IWC rejected a moratorium by votes of 6 to 4—with 4 absentions—and then by a failure to obtain a three-quarters majority of 8 affirmative to 5 negative votes—with 1 abstention. The opposition to a moratorium has been led by Japan and Russia, two countries responsible for about 85 percent of the 35,000 whales killed each year.

Last year, the IWC, by a three-fourths majority of its members, voted to enact conservation measures designed to protect the sperm, fin, and minke whales in the Antarctic. Both the Soviet Union and Japan rejected parts of these measures.

The reckless slaughter of whales has reduced five species to near extinction, including the magnificent blue whale, the largest creature that inhabits the earth. The feeble efforts of the IWC to protect these magnificent mammals has met with little success. As Dr. Robert White, U.S. Commissioner to the IWC has stated:

> The action of Japan and the Soviet Union in ignoring the overwhelming sense of the Commission in which they sit, calls into question whether the I.W.C. as presently constituted is capable of serving the cause of conservation, or only that of the whaling industry.

It is high time that the responsible governments of this world take positive action to protect these fascinating creatures before they become extinct. Fortunately there are also concerned private organizations working tirelessly and imaginatively to make our space ship planet safe for the mammals family of Moby Dick.

In this connection, I ask unanimous consent to have printed in the RECORD the Commerce Department release on the U.S. protest of the refusal of Japan and the U.S.S.R. to comply with the IWC conservation measures, together with statements of the National Wildlife Federation, Project Monitor and the Friends of Animals, Inc.

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

RELEASE OF DEPARTMENT OF COMMERCE: OCTOBER 22, 1973

The Governments of Japan and the Soviet Union have effectively refused to comply with vital conservation decisions taken by the International Whaling Commission in London last June, it was revealed today.

Dr. Robert M. White, U.S. Commissioner to the IWC, termed their actions a serious setback to protection of the world's whale population. Dr. White, Administrator of the Commerce Department's National Oceanic and Atmospheric Administration, said the U.S. Government is protesting strongly and urging them to reconsider.

"The nations of the world have indicated almost unanimously their determination that the whales be protected—at the UN Conference on the Human Environment in Stockholm in 1972, and this year at the meeting of the Governing Council of the UN Environmental Program in Geneva," Dr. White said. "The world has been looking to the International Whaling Commission to transform these recommendations into realities. That Commission, responding to world opinion and to the best available scientific evidence, has voted for a series of important conservation measures. The action of Japan and the Soviet Union in ignoring the overwhelming sense of the Commission in which they sit, calls into question whether the IWC as presently constituted is capable of serving the cause of conservation, or only that of the whaling industry.

"It is clear that if this continues, the convention of the IWC governing the protection and management of whales must undergo sweeping change. Five of the eight species of great whales are in danger of extinction, and their conservation must be a paramount consideration." In a communication from the Secretary of the IWC to Dr. White dated October 5, the U.S. Government has been informed that the Japanese have objected to IWC decisions to cease the taking of Antarctic fin whales by June 30, 1976; and that both Japan and the Soviet Union have objected to IWC decisions to set the next season's quota on minke whales at 5,000; and to set catch quotas on sperm whales in the Southern Hemisphere for the next season by areas. This means that these nations refuse to abide by these decisions. In a note dated September 19, the Japanese Embassy informed the State Department of the above objections and announced its intention to set "voluntary quotas" on fin and minke whales. The note also explained the reasons for the Japanese objections.

Addressing the IWC in London, Dr. White termed the fin whale "the most seriously depleted of all the species now being killed commercially," and declared that an immediate, complete moratorium was the most urgent issue facing the Commission.

The Commission, by a required three-fourths majority, recognized the seriousness of this depletion by voting a three-year phased moratorium which would accommodate the need to stop taking fin whales in the Antarctic and take into account the economic impact upon Japan's whaling industry.

The new Japanese objection stated that the catch quota for next season is less than half the sustainable yield named by the IWC scientific committee, and cited the demand for whale meat as food in Japan. It further expressed the fear that this ban might lead to a total ban on all whaling. It pledged to maintain quotas at the present level should stock conditions remain unchanged.

Dr. White points out that in objecting to the fin whale moratorium, Japan is disregarding the wishes of a three-quarter majority of member nations, and that the majority decision arose from recognition of the importance of allowing for the quickest possible recovery of the species. Dr. White added that the protein involved in 1,500 fin whales would amount to an insignificant contribution to the meat requirement of Japan.

The second major issue raised by Japan and the Soviet Union is the minke whale quota. The whaling nations proposed a take of 12,000, but the IWC scientific committee set a figure of 5,000. In the IWC's plenary session, Japan proposed 8,000. The final vote was for 5,000, with only Japan in opposition. (The U.S.S.R. at the June meeting of the IWC supported the quota of 5,000. It has now in effect reversed that position.)

Japan's objection argues that a sustainable yield (that does not further deplete but does not restore depleted stocks) is over the 5,000-whale quota, and that even if catches were to increase, sustainable yield would, too. It said it would "set a quota voluntarily, based on scientific findings of the stock," and added it would consult with the U.S.S.R., another pelagic whaling nation, if necessary.

On this point, the U.S. position is that the Japanese and Soviet action flies in the face of the views of all other member nations and of the IWC's scientific committee. This committee, at the 24th meeting of the IWC in 1972, estimated the minke whale population at 150,000 with a maximum sustainable yield of 5,000. In this year's session Japanese scientists estimated the population at 298,000, with a maximum sustainable yield of 12,230. The scientific committee maintained the 5,000 figure. It pointed out that no sound basis exists for determining which figure is the most accurate, and emphasized the need for a conservative approach.

The IWC agreement on sperm whales approved a quota of 4,000 female animals in the Southern Hemisphere, to be taken only in three geographic areas. The arrangement was

suggested by the scientific committee, and approved by the technical committee and the plenary session, with only Japan and the U.S.S.R. in opposition.

Japan conceded that the rationale was acceptable but held that the area-oriented quotas were not based on any classification of sperm whale stocks in the Southern Hemisphere, therefore, strict implementation would have no scientific validity. It argued that the IWC decision gave no consideration to whaling operations under the control system, entailing technical and legal difficulties under the provisions of the Convention governing the IWC. In this case, no counter-offer was made.

The U.S. protests to Japan and the Soviet Union state that their objections were directly opposite to the strong advice of the Scientific Committee, which does not consider that a single quota should be set for each sex for the Southern Hemisphere. Quotas-by-area are the antidote to overfishing, according to the committee. Failure to implement this management measure will inevitably result in further overfishing of the sperm whale stocks.

In conclusion, the U.S. expresses the hope that the Japanese and Soviet governments will reconsider their decisions in the next 90 days, and that each will "make its plans regarding a strengthened secretariat known, and thereby indicate its intention to make IWC a viable conservation organization."

INTERNATIONAL WHALING COMMISSION

The International Whaling Commission was established under the 1946 International Convention for the Regulation of Whaling. The United States implemented the terms of the Convention by enacting the Whaling Convention Act of 1949 (16 U.S.C. 916).

The Commission meets at least once a year to consider the condition of world whale stocks and to recommend measures for their conservation. It regularly assesses the condition of the stocks and their capacity to sustain a commercial harvest, and each year recommends catch limits and other regulations. Its recommendations are considered by the member governments and serve as the basis for setting national rules and regulations to control their whaling industries.

Because of a continuing decline in stocks, the Commission has instituted a total worldwide ban on killing blue, gray, bowhead, humpback, and right whales, and has significantly reduced catch quotas on sperm, fin, sei, Bryde's, and minke whales, to prevent overfishing and to permit recovery of the stocks of these species.

STATEMENT OF NATIONAL WILDLIFE FEDERATION: WHALE KILLING PROMPTS AMERICAN BOYCOTT OF JAPAN, U.S.S.R. GOODS

In a strongly worded letter to President Nixon, the head of the world's largest private conservation organization has urged a massive American boycott of all Japanese and Russian products in response to those countries' "short-sighted" and "callous" whaling activities.

The need for a major boycott, according to Tom Kimball, executive vice president of the National Wildlife Federation, is based on the unwillingness of Japan and the Soviet Union to revise their whaling practices despite the declining numbers of the earth's largest living creature. "The best scientific information available points towards the extinction of at least some of the eight species of great whales," Kimball noted, "unless all whaling nations are willing to revise their practices to the degree necessary to insure the survival of these great marine mammals."

"It seems to us that our persuasion, to be effective, must hit the Japanese and the Russians in their pocketbooks," argued Kimball. "If our boycott of Japanese-made automobiles, electronic equipment, cameras, and clothing, and such Russian consumer products as canned fish, alcoholic beverages, and furs is successful, perhaps the industrial sector of those two nations can succeed in changing their governments' whaling practices."

Satisfactory substitutes have been found for all whale products, including lubricants, cosmetics, soap, paint, shoe polish, and margarine. Much is used for food for pets or for ranch mink. Though whale meat is eaten in small quantities by the Japanese and Russians, "the amount of protein which it contributes to the Japanese (and Russian) diet is, by any standards, insignificant," Kimball stated.

Despite the demise of the great sea leviathans, the Soviets and Japanese unrelentingly keep the pressure up. Last year, the Japanese mounted four whaling expeditions and the Russians three. Each consisted of a huge factory ship almost as big as an aircraft carrier, attended by a fleet of small, fast catcher boats that run down the whales and kill them with cannon-fired harpoons, which carry explosive charges that detonate inside the animals.

The Japanese and Soviets are currently the only countries engaged in major whale-killing efforts. The U.S. phased out its last whale fleet in 1971 and has banned the importation of all whale products. The British, the Norwegians, and the Dutch left the major hunting grounds—the Antarctic and the North Pacific—a few years ago when the supply of whales dropped so low that expeditions became unprofitable.

While Kimball admitted that there is a dearth of comprehensive, reliable population statistics on whales, scientific indications and declining whale harvests point to a major survival threat for most species of whales. In the last 50 years, over two million whales have been killed and, in just the past three seasons, the figure has averaged about 37,000, a decline reportedly due to the fact that there were fewer whales to be killed. The over-all quota set by the International Whaling Commission for the 1973–74 season is 37,500.

Although representatives of the first U.N. Conference on the Human Environment held in Stockholm last year voted unanimously to support a 10-year halt to whaling and the U.S. strongly called for a moratorium at the annual International Whaling Conference meeting this past June, Japan and Russia have consistently rebuffed restrictions on whaling. The two countries continue to haggle over their share of the remaining whales and dispute all scientific warnings that the whales are dwindling.

"At the (IWC) meeting," Kimball pointed out to the President, "both Russia and Japan declared their unwillingness to abide by an earlier decision made by all 14 member nations to provide the Commission with a strengthened secretariat. In addition, the Japanese voted against three principal conservation decisions and the Russians voted against two. . . . The recommendations are biologically-sound and predicated on viable wildlife management principles.

The three IWC measures which Japan and Russia have chosen to ignore involve limiting the harvest of fin whales, minke whales, and sperm whales, all considered seriously depleted.

Japan alone opposed the IWC recommendation which would limit the 1973–74 quota of fin whales, the second largest creature, to 1,450 and would phase out all hunting of the species by June 1976. The U.S. had urged in immediate moratorium. Although there were once an estimated half million of these animals, optimistic guesses currently put their number at about 80,000.

Both the Soviets and the Japanese have announced that they will not limit their take of minke whales to a total of 5,000 in 1973–74, the same quota as last year. Thinking it would be the only nation hunting minke whale in 1972, Kimball explained, "Japan agreed to a 5,000 quota. However, the Soviets decided to harvest the minke whale, beat Japan to the Antarctic hunting waters and took the first 3,200, limiting the Japanese catch to about 2,500 whales." Japan is using its own set of scientific figures this year to justify taking up to 12,230 minke whales.

Also, the Japanese and Russians have both ignored an IWC effort to set 1973–74 quotas on sperm whales based on geographical areas in the Southern Hemisphere rather than on sex. Catching by sex, without regard to geographical location, encourages overkill in more easily accessible hunting waters, according to biologists.

Representing both the active whaling nations and nations with an interest in whaling, including the U.S., the IWC theoretically regulates international whale killing. Member nations, however, are not bound to abide by the Commission's decisions and, just as Russia and Japan have done, members are free to enter a formal objection and do as they please.

"Since Japan and Russia are acting within the legal constraints of the IWC Charter" Kimball stated, "that body is apparently helpless to act."

Besides urging a mass American boycott of Soviet and Japanese goods, Kimball asked the President to combine the consumer action with "firm Federal action." The President was urged to work with the Congress to develop a condemnation of current Japanese-Russian whaling practices, explore the use of a variety of diplomatic channels to dissuade Japan and Russia from continuing their whaling practices, and undertake a review of U.S. trade agreements with Japan and Russia.

"For example," Kimball noted, "there is considerable bargaining leverage to be gained from our wheat transactions with the USSR and our soybean sales to Japan."

"We are fully aware of the serious . . . economic impact (the boycott) might have on trade relations, especially with Japan," the head of the 3 and ½ million member organization stated. However, "we cannot afford to procrastinate any longer. The lengthy delays in reaching amicable settlements with the Governments of Japan and the USSR are jeopardizing the continued existence of the great whales."

In addition to boycotting Soviet and Japanese goods, the National Wildlife Federation also urges that American consumers notify dealers, the ambassadors of each of the countries, and the U.S. State Department of their actions.

STATEMENT OF PROJECT MONITOR

The Japanese Government was accused today of threatening the near or actual extinction of several species of whales and of ignoring internationally-agreed-to measures to conserve and prevent the depletion of other whale stocks.

The basis for this charge is Japan's recent announcement that it was rejecting three major conservation measures adopted at the June, 1973 meeting of the International Whaling Commission of which Japan is a member. This flagrant action on the part of Japan is indicative of that nation's almost total disregard for conservation concepts and for the opinion of the international community on protecting and preserving the environment.

Because of Japan's determination to ignore world opinion and continue its greedy and short-sighted whaling policies, a coalition of major environmental and conservation groups has proposed a boycott of Japanese products in the United States and an embargo on Japanese fisheries imports.

At the London meeting of the International Whaling Commission, a ¾ majority of the fourteen member nations (Argentina, Aus-

tralia, Canada, Denmark, France, Iceland, Japan, Mexico, Norway, Panama, South Africa, Soviet Union, United Kingdom and United States) voted to phase out the killing of the depleted fin whales in the Antarctic, bringing the slaughter to an end no later than June 30, 1976. The Commission by a vote of 13 to 1, rejected Japan's demands for a quota of 8,000 to 12,000 minke whales in the Antarctic, and elected to hold the kill of these whales to a maximum of 5,000 for the 1973–74 season.

However, in a note dated September 19, 1973, the Japanese embassy conveyed to the Department of State its Government's refusal to comply with Commission decisions which were opposed by Japan during the deliberations in June. The note said Japan would set quotas "voluntarily" on Antarctic fin and minke whales in line with Japanese "interests." The note also stated that Japan would not observe "by area catch quotas" for sperm whales in the southern hemisphere as had been agreed to.

On October 16th in Washington, leaders of national organizations who have been working together under the aegis of Project Monitor, including Friends of the Earth, Animal Welfare Institute, Fund for Animals, Defenders of Wildlife, Environmental Policy Center, Animal Protection Institute, Let Live, Inc., and the Society for Animal Protective Legislation, accused the Japanese Government of "bowing to the blind greed of the major Japanese whaling companies". Japan, they asserted, must bear a major responsibility for two decades of mindless destruction which has brought the blue and humpback whales to the verge of extinction. The blue whale is the largest animal that has ever lived. The humpback whale is best known for its beautiful and mysterious "song" which has inspired symphonies and has been made into a popular record album. Recent studies indicate that even the small estimated numbers of humpbacks were too optimistic. The fin whales are critically depleted, and the future of all species of these unique and magnificent mammals is in grave jeopardy.

The conservationists ridiculed recent Japanese contentions that whale meat is a major source of protein for the Japanese people. They cited an analysis derived from Japanese fisheries data showing that whale meat constitutes less than one percent of the Japanese protein intake, and that antarctic fin whales make up only a fraction of that. They noted that 12 million pounds of whale meat from Japan was exported to the United States for pet food in early 1971, before the ban imposed under the Endangered Species and Marine Mammal Protection Acts. They further noted that Japanese canned whale meat for human consumption, illegally offered for sale, had recently been confiscated by the State of New York.

Leaders of the national organizations stated, "Japan has pursued a policy of unrestrained rapacity, not only toward whales but toward dolphins, porpoises, endangered sea turtles, and other marine creatures. This is in contemptuous disregard for international opinion, which strongly favors the conservation of whales and other marine mammals. Japan's overfishing of salmon and other fish stocks is well known. Under present circumstances, we feel that we have no choice but to ask the members of our organizations, and all other concerned Americans, to refrain from buying Japanese products and to express this intention by writing to dealers in such products until Japan agrees to end its ruthless destruction of the great whales".

They noted that the American people each year buy literally billions of dollars worth of Japanese goods: Sony and Panasonic radios and television sets; Datsun and Toyota automobiles; Honda and Yamaha motorcycles; Nikon cameras, and other goods that compete with American products. The leaders of the groups emphasized that Japan was jeopardizing the good will and respect necessary for such unilaterally lucrative trade.

At the London meeting of the International Whaling Commission, the United States delegation for the second year in a row pushed for a ten-year moratorium on all commercial whaling. The proposal passed by a majority of 8–5 with one absention, but did not receive the necesary 3/4 majority and so was not adopted. The U.S. position involves more than preventing the extinction of the largest and among the most intelligent animals that has ever inhabited the earth, or of halting the incredible suffering being inflicted on these friendly highly evolved mammals. There may be serious danger that in eliminating these leviathans we are further upsetting the delicate balance of life in the world's ocean ecosystems whose health and stability are fundamental to man's own survival. By further depleting the remaining whale stocks to obtain products for which there are readily available substitutes (oils for lipstick and other cosmetics, food for mink and sable)—man may be playing a dangerous game.

The conservation groups pledged an all-out campaign to save the whales. "We will urge our government to take every legal means available to exert economic and political pressure on the Japanese to bring about compliance with policies aimed at preserving the great whales".

A possible means of exerting economic pressure might be the "Pelly Amendment" to the Fisherman's Protective Act of 1967 which permits the United States to embargo fisheries products from nations flouting international programs established for the conservation of marine resources. A means of exerting political pressure would be a motion of censure in the United Nations. The official policy of the United Nations, first adopted at the U.N. Conference on the Human Environment at Stockholm in 1972 by a vote of 53–0 and confirmed unanimously (with a reservation by Japan only) by the 58-nation governing council of the U.N. Environmental Program in 1973, is for a ten-year moratorium on the commercial killing of all species of whales.

STATEMENT OF THE FRIENDS OF ANIMALS, INC.: SAVE THE WHALES

The great whales have always fascinated man. They are as mysterious as the oceans they inhabit. The smaller whales, the porpoise and dolphin, are a source of joy to all who know them as well as the fisherman's guide to the coveted school of tuna. The world can ill afford the annihilation of this unique and ecologically essentially animal species which is currently being hunted down towards extinction.

There is general accord among most nations that there should be a moratorium on the slaughter of all great whales. Unfortunately, however, Japan and Russia have not subscribed to the common consensus.

Mrs. Alice Herrington, Director of Friends of Animals, Inc., has observed that next month, December, the whaling fleets of Japan and Russia plan to penetrate the Antarctic—territory which belongs to the people of the world just as the whales themselves are the common property of all mankind. Thousands of whales will be taken to add to the dread statistic of captured whales. Primarily the whale is sold for pet food, machine oil, lipstick and a variety of other products for all of which there are substitutes. A very small amount is used in Japan for human consumption and this source of protein can readily be replaced by soybeans. Can there be any justification for a slaughter which will feed a few people only for a few years before the great whales are gone?

Our message to Japan and Russia, on behalf of ourselves, the members of Friends of Animals, and the people of this nation, should be a combined note of disapproval and a plea for a halt to the massacre of whales.

ENERGY RESEARCH AND ALASKAN RESOURCES

Mr. GRAVEL. Mr. President, in the past several months, the attention of the Senate, and in fact of the whole country, has been focused on the trans-Alaska pipeline. Alaska has been trying to start construction on the vital project since 1969 but has been stalled by outside interests. It took a very real national crisis before we could proceed with a project that, had it been approved sooner, would have forestalled or mitigated our national energy crisis.

But I do not rise, Mr. President, to address the inequities of the past, but to point to the possibilities of the future. Alaska has an enormous and varied energy potential. Our State stands ready to develop this energy potential to serve the Nation when the Nation is ready to let us proceed and will provide the technology required to fully explore and develop our resources and transport them to national markets.

In the past few weeks, the Senate has spent considerable time on energy conservation bills. These bills could have a significant impact on decreasing energy consumption and temporarily reducing part of our energy shortage. However, in the long run, we cannot depend exclusively on decreasing demand, which reduces goods, services, and other opportunities available to our citizens, but should emphasize increasing our supply of energy resources.

Today I introduced a bill to do just that—to provide the funding necessary to finance an extensive program of research and development to increase our domestic energy supplies. The projects that will be funded under this bill will permit us to make great leaps in energy technology and thus to provide for the energy needs of our citizens in the years to come.

The importance of technological development cannot be stressed too much. Technology advances turn untapped wealth and unknown potential into natural resources. For example, at one time oil was considered a nuisance, a hindrance to water drilling and supply operations. Now it is a vital resource. We are a step ahead today. We have already identified potential new sources of energy resources. However, we must improve the technology by which we convert those sources into consumable supplies. Many long existing forces and substances can be turned into the resources of the future, for we do not just have natural resources; we develop and create them.

Alaska has many potential resources, resources that can be tapped if the proper technology is developed. It has the potential for geothermal energy, tidal energy, and windpower, and it also has vast deposits of coal and oil.

Man areas in Alaska have been identified as potential sources of geothermal energy. Some can be used today if our country commits itself to their develop-

ment and provides the funds for converting this energy to a usable form and demonstrating its feasibility as a commercial source. Other areas may become commercially feasible with further progress in geothermal energy conversion research.

Tidal energy can also become a reality in our State. Cook Inlet in south-central Alaska has some of the highest tides in the world, tides that could drive large generators to provide clean energy. The development of this eternal source of energy could have a significant impact on U.S. energy supplies. While the potential is great, the private sector has not adequately researched this important energy source. Therefore, Government must demonstrate its potential and prove its feasibility.

Windpower is becoming another possible energy source. The windswept Aleutian chain in Alaska would be a very good place to test the commercial feasibility of wind energy. The potential exists, Mr. President, to use windpower to produce hydrogen fuel, the cleanest burning of all combustion energy sources. But the private sector must be persuaded that it should expand into this area. Demonstration programs under my bill would provide this incentive.

Alaska also has substantial deposits of conventional fuels—coal, oil, and natural gas. For example, two-thirds of the U.S. coal reserves are located in Alaska. To make development economically feasible and to provide for efficient modes of transportation to the lower 48, further research should be done on coal gasification and liquefaction and oil and gas technology. Government sponsored and financed energy research could provide the necessary incentive to interest the private sector in such developments.

The oil and gas reserves in our State mandate that additional pipelines be built to transport our resources to the contiguous States. The first pipeline has been authorized, but more must follow.

The first trans-Alaska pipeline will be a model of environmental engineering. It will demonstrate the way to the safe development of our resources and protection of our environment. The environmental impact statement prepared on this project will be the yardstick for measuring the completeness of those to come, both for development in Alaska and other States. Be assured Alaska will not let oil companies and other developers trample our beautiful countryside and rape our resources, but we will make available our energy resources to the rest of the country in a manner that will also conserve our other natural resources, our splendor, and natural beauty.

Our energy supplies are contingent upon an adequate research and development effort. A resolve to increase domestic production is not enough; we must provide adequate funds to carry out the research necessary to develop new technologies of resource use. It is for this reason that I have been working on legislation to establish a trust fund to finance R. & D.

As chairman of the Finance Committee's Subcommittee on Energy, I called for hearings in November to consider the trust fund concept and other fiscal matters as they relate to energy. As a result of those hearings, I am convinced that we can and must establish a trust fund to insure that adequate funds are contributed to our research effort on a sustained and stable basis. With a minimal tax on energy sources, we can finance a research effort that will open up new horizons of resource applications.

Other bills have been submitted to increase our Federal research and development effort, but the other bills have not provided the means to finance such an effort. I am thoroughly convinced that we must establish a mechanism whereby a substantial, stable and suitable research program can be funded. It is with this thought in mind that I drafted and submitted my bill.

The energy trust fund bill allows the Government to finance this effort at the levels warranted by the energy crisis. However, it provides, through the trust fund, that this will be a noninflationary, pay-as-you-go program.

Thus the extensive research effort I propose will not be financed by direct spending with its attendant inflationary and debt creating problems, but by a tax on energy production. Funds collected by this tax will be invested in research to help the private sector develop the technology it needs to increase our domestic energy production.

The energy trust fund bill is designed to overcome the principal problem that faces existing proposals—securing adequate financing for research efforts. As my colleagues well know, past efforts to limit expenditures to noninflationary levels have resulted in most programs being trimmed to the bone. But increasing energy programs requires either that further cuts be made in existing programs or that additional revenues be raised. As there are few places to make further cuts, I have provided a mechanism that could be used to raise additional revenues. Thus while other research plans are proposed, they are meaningless unless we also provide the means to finance them.

My energy bill will also eliminate much of the Government control and regulation which has stifled energy exploration and development in the private sector. While this bill places the responsibility for energy planning and research on the Government, it returns the free market to the private sector.

Furthermore, the bill provides incentives for private enterprise to increase domestic energy exploration and development, thus increasing domestic supplies and energy independence. It also provides for transferring naval petroleum reserves to the Department of the Interior. The Interior Department can then lease these lands so that their oil and gas supplies can be used to meet our needs.

Mr. President, Alaska's resources can and should be developed to meet America's needs. Alaska's energy potential can become a reality with a properly financed energy research effort. I would not be surprised, Mr. President, if our country reaches "Project Independence" by 1980 or 1985. And I would not be surprised if Alaska is supplying over 20 percent of our country's energy needs at that time.

THE UNITED STATES AND WORLD AFFAIRS

Mr. PELL. Mr. President, on this past weekend, my distinguished senior colleague from Rhode Island (Mr. PASTORE) delivered in Rhode Island an excellent and perceptive address on the current position of the United States in world affairs.

In his remarks, Senator PASTORE demonstrated, as he has so often here in the Senate, his extraordinary ability to bring into sharp focus the real issues that confront our country—issues that often are obscured in the flux of daily events and monthly crises.

My senior colleague argues, persuasively and cogently, that the foreign policy of our Nation must be adapted to emerging realities of the world.

Mr. President, I believe Senator PASTORE's message is one we should all heed, and I ask unanimous consent that the text of the excellent address delivered by my senior colleague on Sunday, December 9, at the 25th annual breakfast meeting of the Catholic Association of College Alumni at the Colonial Hilton Inn, at Providence, R.I., be printed in the RECORD.

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

REMARKS OF SENATOR JOHN O. PASTORE

Fellow Americans, I have been in public life for thirty-eight years. I have seen things come—and I have seen things go. I have lived through several wars—a depression—several recessions—periods of prosperity—the splitting of the atom—the landing of men on the moon—and many other scientific and technological achievements which were considered to be beyond belief.

Moreover, I have found that rarely in human affairs is one confronted with a situation which is all white or all black—and an assessment of American foreign policy as we approach the last quarter of the twentieth century is no exception.

We do not have a foreign policy simply because it is fashionable to have one or because our neighbors have one. We have a foreign policy to advance what we conceive to be our national interests.

There may be disagreement as to where the national interests lie in specific situations—or as to what concrete policies will best promote them—but, by and large, our basic national interests are constant.

Peace and prosperity are as good a short way of putting it as any. The world situation in which these national interests exist, however, is always changing and these changes have to be taken into account if policy is to do what it is supposed to do.

It is my thesis this morning that we have been wanting in adapting to changes which have taken place in the world in the last twenty years—changes which we ourselves have done much to bring about.

We have, for example, established lines of communication with the People's Republic of China and we have moved toward detente with the Soviet Union. But in most other respects, American foreign policy is still too much a prisoner of the 1940's and 1950's. Consider the paradoxes which result:

At a time when we are belatedly recognizing—de facto if not yet de jure—the existence of the People's Republic of China, we are still maintaining 125 military bases and facilities in Japan—presumably to protect the Japanese from the Chinese, while the Japanese are falling all over themselves to do business with the Chinese.

At a time when we are proclaiming to talk with the Soviet Union, we are maintaining over 300,000 American Troops and more than 7,000 nuclear weapons in Europe, while European currencies get stronger and the dollar gets weaker—and while we live up to our full commitment, I regret to say not a single one of our NATO partners does.

I most certainly approve of our approaches to the People's Republic of China and I approve of the detente with the Soviet Union. But—in too many respects—we are still acting as though these things had never happened.

Détente is more than desirable—in this nuclear age it is imperative. If it were ever true that war is an extension of policy by other means, it is now true that the supreme objective of our policy must be the avoidance of war.

In a nuclear war, there will be no winner—the loser will be the human race.

Secretary Kissinger put it very well when he said in his October 25 press conference:

"The United States and the Soviet Union are, of course, ideological and, to some extent, political adversaries. But the United States and the Soviet Union also have a very special responsibility. We possess—each of us—nuclear arsenals capable of annihilating humanity. We—both of us—have a special duty to see to it that confrontations are kept within bounds that do not threaten civilized life. Both of us, sooner or later, will have to come to realize that the issues that divide the world today, and foreseeable issues, do not justify the unparalleled catastrophe that a nuclear war would represent."

Furthermore, if it were not for such détente as has already been achieved, there would still be a war in the Middle East and by this time it might well have spread beyond the Middle East. We can only hope that the end of the fighting will lead, finally, to a just and durable peace in that tormented area.

But—while welcoming the containment of hostilities—we have to recognize also that it has resulted in a considerable strain on our traditional alliances.

In part, this is because Western Europe and Japan are much more dependent than we on Middle Eastern oil and, consequently, susceptible to pressures from Arab nations.

But the problem—I think—goes deeper than that and is rooted in the failure both by ourselves and our allies to adjust to more profound changes in the world, principally those represented by the new U.S. relationship with the Soviet Union and mainland China plus, importantly, the increase in nuclear weapons.

A substantial European point of view was well expressed by the French Foreign Minister last month when—in the same speech—he complained about our failure to consult with NATO during the Middle East crisis and—in the same breath—urged us not to withdraw any of our troops from Europe.

This—it may be noted parenthetically—is coming from the country which asked us to withdraw troops from France not many years ago and which insisted that NATO headquarters be moved from Paris at the cost of millions of dollars. Many Europeans want it both ways and clearly you "can't have your cake and eat it too."

Now I know that matters will not be improved by trans-Atlantic backbiting and I do not intend to indulge in it this morning. What is needed instead is mutual reconsideration of what is required for our joint defense now in 1973—and not what was required in 1950.

The only way to defend the Atlantic community, including the United States, is to prevent a war from happening. Fundamental to this is our deterrent strength—Minuteman—Polaris—Poseidon—B-52's—and the B-1 and Trident soon to come.

The question may be fairly asked—with all of this destructive power—and with both Great Britain and France having nuclear capabilities—do we—do the Europeans—need all of the 7,000 American nuclear weapons in Europe?

Reasonable people can differ as to how much is enough, but surely it is less than we now have. And the same can certainly be said of the Russians as well. To keep on making more and more of the same things is utter madness.

What is important here is not quantity—which we have to excess—but quality, which we must be vigilant to maintain. What is important is that we be sure that our deterrent continues to deter—that it continues to be immune to disabling action by an enemy.

This means research. It means development of weapons of improved technology and of improved counter-measures. But it does not mean wasting our resources to accumulate more of what we already have too much of.

Granted that in 1950 it was in our interest to provide a protective umbrella for Japan and Western Europe. But this hardly qualifies as eternal truth. It is time for the Japanese and the Europeans—who have grown rich under the protection of this umbrella—to assume more of the burden of supporting it.

To say this is not to advocate abandonment of our allies, although some of our allies choose to interpret it that way.

One of the problems lies in the way we have handled the two sets of relationships—our changing relations with the Chinese and Russians on the one hand and our relations with the Japanese and NATO on the other. The two have not been synchronized.

The Japanese were profoundly shocked by the abruptness of the surprise announcement of President Nixon's trip to Peking, an announcement which they correctly interpreted as signalling a fundamental change in our Asian policy without any prior notice, much less consultation.

We may accept the explanation—which we have heard many times from the President and Dr. Kissinger—that such extreme secrecy was necessary to protect extraordinarily delicate negotiations. But that does not change the objective fact of Japanese shock. Neither does the point that the Japanese themselves—even prior to the announcement of the Nixon visit—were flirting with the Chinese tradewise.

Similarly, with respect to NATO, it is possible to understand a certain nervousness on the part of the Europeans over where detente may lead—and this despite the fact that the Europeans themselves have been opening communications and trade routes to the East for longer and more vigorously than we have.

Clearly, more attention needs to be paid to our alliances. We need NATO. We need Japan. But they need us too. Both we and they need to take a fresh look—together—at the realities of the world of 1973.

I do not see any fundamental divergence in the interests of the United States, of Western Europe, and of Japan. It is in their interests—as ours—that there be peace in the Middle East.

It is in their interests—as ours—that the 800 million Chinese be brought into the community of nations. It is in their interests—as ours—that superpower rivalry be contained. And it is in their interests—as ours—that the United States be less involved in their defense.

It also has to be said, regretfully, that one of the things bothering our allies is a crisis of confidence. This is a natural result of their seeing our own affairs in such wild disarray.

This is a matter which I am sure we will resolve in time and, meanwhile, our diplomacy simply has to live with it.

It is not simply with respect to Europe and Japan that our perception of the world has not kept pace with reality. Indeed, this is true perhaps especially with respect to the less developed countries of Latin America, Africa, and Asia.

Here our policies are scarcely touched by the winds of change that have blown over our relations with Moscow and Peking. We still identify ourselves—to our long-range detriment—with unpopular governments because they are anti-Communist or "on our side", whatever that means.

We still justify an astonishing proportion of our foreign aid program on grounds which are hardly distinguishable from the rationale of the cold war.

We need a foreign aid program—but we need one considerably different—and considerably smaller—than the one we've got, which can reasonably be described as a jerry-built boondoggle.

Our capacity to extend foreign aid is much smaller than we thought twenty years ago—smaller both in terms of the resources which we can devote to it in the light of our own economic situation—and smaller in terms of our human abilities to achieve results.

The foreign aid program should be aimed more at economic development and less at the support of foreign military forces and unpopular governments.

Economic development is a much more complicated process than was once thought—and there are not many places where an injection of foreign aid dollars is all that is required to bring it about. My own view is that our efforts should be channeled primarily into providing food for the hungry and technical assistance to the extent of our capabilities.

When you come right down to it, these capabilities are really quite small. The limiting factor in our technical assistance programs has always been people—not money.

The demands on a shirtsleeve diplomat are greater than on his striped-pants colleague. The striped-pants diplomat moves along the sophisticated elite, frequently educated in Europe or the United States. The shirtsleeve diplomat deals with the common masses—the poor and deprived, so to speak—always allergic to change and frequently untutored. Besides his own technical specialty, he must be a master of the local language and culture. This is a combination which is not commonly found in the United States.

In short, we ought to begin doing things we need to do and stop doing things out of force of habit.

We have now decided we can talk to the Chinese and that we can get along—indeed, that we have to get along—with the Russians, but our policy toward Cuba has not moved one eyelash since 1962.

Are the 6 million people on that wretched island so much greater a threat to our peace and security than the 800 million Chinese and the 250 million Russians?

We have gotten our troops out of Vietnam—thank God—but we still have more than half a million others scattered elsewhere around the world. Do we really need them—or are we just used to it?

We are still spending money overseas like we could afford it. Are we getting our money's worth—or do we just have the habit?

We are still stockpiling weapons like we were getting ready to fight the last war. Do we really need them—or is this just a process of inertia?

To conclude—I think it is good that we have changed our China policy. I think it is good we have improved our relations with the Soviet Union.

Quite part from everything else that has been going on in the world—and there has been a good deal—these two things by them-

selves have radically changed the world situation.

We have not yet thought through the implications of these changes and adjusted our other policies accordingly. Hopefully, this process is high on Dr. Kissinger's agenda. But—as we learned to our sorrow in the 1960's—a foreign policy is only as good as the public support it commands.

If the rethinking and reassessment which the times now require are confined to the State Department and the White House—or even the Congress—the results will be sterile and futile. It has to be a public process with wide public participation.

That is why I have been glad to share these thoughts with you this morning.

Thank you very much.

ADDITIONAL SUPPORT FOR THE AMERICAN FOLKLIFE PRESERVATION ACT

Mr. ABOUREZK. Mr. President, I have been extraordinarily pleased by the support and interest indicated on behalf of S. 1844, the American Folklife Preservation Act. When I originally introduced this bill on May 17 of this year I was joined by 13 cosponsors. Since that time the list of sponsors has grown to 56.

But the support for this bill is not restricted to Capitol Hill. On September 13, I inserted a sampling of my mail on this bill. And since that date, support from professional folklorists, private citizens, and organizations has continued to increase.

Two associations which have added their voice of support are the American Library Association and the American Folklore Society. Both of these are highly respected associations deeply committed to the preservation of American folklore.

Mr. President, as evidence of the support this bill enjoys, I ask unanimous consent that a list of all Senate cosponsors, a letter from the American Library Association, and a resolution adopted by the American Folklore Society at their recent annual convention in Nashville, Tenn., be printed in the RECORD.

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

COSPONSORS OF S. 1844

Alaska: Stevens, Gravel.
Arizona: Goldwater.
Arkansas: McClellan, Fulbright.
California: Cranston, Tunney.
Colorado: Dominick.
Delaware: Biden.
Florida: Chiles.
Georgia: Talmadge.
Hawaii: Fong, Inouye.
Idaho: Church.
Illinois: Percy, Stevenson.
Indiana: Bayh.
Iowa: Clark.
Kansas: Dole.
Kentucky: Cook, Huddleston.
Louisiana: Long, Johnston.
Maine: Muskie, Hathaway.
Maryland: Mathias.
Massachusetts: Kennedy.
Minnesota: Mondale, Humphrey.
Missouri: Eagleton.
Montana: Metcalf.
Nevada: Bible.
New Hampshire: McIntyre.
New Jersey: Case, Williams.
New Mexico: Montoya, Domenici.
New York: Javits.
North Carolina: Ervin.
North Dakota: Burdick.
Ohio: Taft.
Oklahoma: Bellmon.
Oregon: Hatfield, Packwood.
Pennsylvania: Scott, Schweiker.
South Dakota: McGovern, Abourezk.
Tennessee: Baker, Brock.
Texas: Bentsen.
Utah: Bennett.
Vermont: Stafford.
West Virginia: Randolph.
Wisconsin: Nelson.
Wyoming: McGee.

AMERICAN LIBRARY ASSOCIATION,
Washington, D.C., November 20, 1973.

Hon. JAMES ABOUREZK,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR ABOUREZK: We have noted with great interest your introduction of S. 1844, the American Folklife Preservation Act, and the large number of cosponsors of the measure in the Senate, as well as the introduction of a counterpart measure by many Members of the House of Representatives.

Our interest in S. 1844 and similar legislation is two-fold. First, it would authorize further development by the Library of Congress of those activities which foster the preservation, study and appreciation of the folk traditions of the American people. As you know, these activities include outstanding folk music and unique collections of manuscripts, documents, books and other publications as well as photographs and other graphic materials.

The contributions of the Library of Congress to the study, preservation and appreciation of the American past, that is, American folklife, are not fully appreciated. Your bill would augment the resources available to the Library for these purposes. Since the Library of Congress is in many ways a keystone of the intricate structure of library services throughout this country, strengthening the Library of Congress, as your bill would do, would thus have the potential effect of promoting the improvement of library services generally.

The second reason for our interest in S. 1844 is that, in addition to the Library of Congress, many other libraries maintain an abiding concern for the varied manifestations of the folk culture of the American people. Most public library systems consider the collection of local history materials a particular responsibility. Such collections typically include the tales, legends and lore of the community from its earliest days, the origins of its place names, the development of its pastimes and celebrations, the correspondence, diaries or other recollections of its citizens of a bygone day, and similar information.

As educational institutions, public, academic and other specialized libraries strive to stimulate the use and appreciation of the materials on their shelves and in their files. Libraries sponsor exhibitions, lectures, performances, broadcasts, publications, and other efforts to inform their patrons. Naturally, these efforts often present aspects of American folklife, such as folksinging, story-telling sessions, demonstrations by craftsmen, examples of the creative traditions of local ethnic groups, and many other comparable events.

Because libraries have long played an important part in the preservation and appreciation of American traditions, in short, the American Library Association endorses S. 1844, and would appreciate having an opportunity to testify in support of the bill when Committee hearings are conducted. One suggestion for possible improvement of the bill in its present form is that you may wish to consider amending Section 5 to include "libraries" in the list of cultural institutions whose work could be aided by the proposed American Folklife Center. Even though libraries would seem to be included among the nonprofit educational institutions mentioned in Section 5, Subsection (6), you may wish to make their potential eligibility more explicit.

Speaking also from the point of view of a library educator, I would like to emphasize the need for such a Center for those of us who work with folk material in our library materials courses such as storytelling and development of children's literature. The impact of American folk material is a significant part of such study. The development of a Center which could be used for research and study would be most valuable.

In conclusion, we are grateful to you for your enlightened sponsorship of this bill, which we will commend to your colleagues for their support, and we are pleased to register our endorsement of the American Folklife Preservation Act.

Sincerely,

JEAN E. LOWRIE,
President, American Library Association.

RESOLUTION ADOPTED BY AMERICAN FOLKLORE SOCIETY

Whereas, The diverse and unique expressions of the American tradition and experience that are defined as folklife must be studied and appreciated if they are to be fostered or preserved; and

Whereas, The support for folklife research, training, collection, and preservation by various agencies of the Federal Government has in the past been uncoordinated and hence sporadic and ineffective; and

Whereas, Finland, Ireland and other nations have demonstrated for many decades that selective and sustained attention to folklife by the national government can strengthen the traditions of the people and thereby augment their pride and dignity; and

Whereas, Congress now has before it the American Folklife Preservation Act which has received the manifest support of a broad cross-section of the entire Congress; Now, therefore, be it

Resolved, That the American Folklore Society respectfully memorializes the 93d Congress of the United States to enact the American Folklife Preservation Act; and be it further.

Resolved, That the Secretary of the Society transmit copies of this Resolution to the Speaker of the House of Representatives and the President of the Senate.

THE ROTC AND AMNESTY

Mr. THURMOND. Mr. President, the December 1973 issue of the National Amvet contains an editorial entitled "Healthy Signs for America," which deals with the issues of ROTC and amnesty.

The editorial speaks for self, and requires no explanation. It is a forthright discussion of two major issues of the day, and I would like to call it to the attention of my colleagues.

Mr. President, I ask unanimous consent that the editorial, "Healthy Signs For America," which appeared in the National Amvet for December 1973, be printed in the RECORD at the conclusion of my remarks.

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

HEALTHY SIGNS FOR AMERICA

To citizens who believe in a strong America it is satisfying to see ROTC organizations on campuses over the nation growing stronger. The virulent assaults on

ROTC during the sixties and continuing until the end of the Vietnam war tended to drive possible officer candidates away from training units. They also caused many university and college authorities to cower in their corners.

The University of California at Los Angeles, for example, was a main target of preparedness protesters in recent years. Late reports indicate a substantial gain in the number of freshmen enrolling in the ROTC units of the Army, Navy, and Air Force.

Boston University where studens forced the closing of ROTC operations back in 1969 has asked for a resumption of military training activities. Harvard, it is reliably reported, is considering the resumption of ROTC activities which it tossed out in 1969 at the crest of student attacks on the military.

With the services operating without benefit of draft, it is the more imperative to have good officer material available. Men with education make better soldiers and officers than those without that benefit.

Another encouraging sign of patriotism revived and a stronger America envisioned, is the action of the military services in flatly rejecting a proposal of the Justice Department to permit draft evaders to escape prosecution by joining one of the services. "No soap," was the unanimous response of the military. In the past draft evaders who had not left the country or interfered with draft office operations, were given the choice of entering service or facing prosecution. The services, incidentally, will not accept volunteers under indictment for any crime.

These signs of stiffening of the nation's backbone help account for the lowered voices of those who would like to see amnesty given all draft evaders, regardless of the degree of their offense or whether or not they had sought refuge in foreign lands. Proponents of amnesty also would forgive the man who deserted.

Under the system by which the United States operates, its citizens cannot decide which laws they will obey or disregard. This is fundamental. Draft dodgers and deserters elected to break the law of the land. There is but one out for them—to face juries and judges who will decide to what degree they should be punished.

The dodger and evader not only broke their nation's law—they sent hundreds of other dutiful men to their deaths who took the chance that some dodger or deserter should have taken had he done his duty.

Members of AMVETS can never get around to accepting the idea of amnesty. It is foreign to our system where every man and woman accepts duty no matter the individual hardship or misfortune it brings to their lives.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The PRESIDING OFFICER. (Mr. NELSON). Under the previous order, the hour of 12 o'clock having arrived, the Senate will proceed to the consideration of S. 1868, with the pending question to invoke cloture on the bill.

The bill will be stated by title.

The second assistant legislative clerk read as follows:

S. 1868, to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Time, under the previous agreement, is limited to one-half hour, with 15 minutes to a side.

Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, I yield 6 minutes to the Senator from South Carolina (Mr. HOLLINGS).

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 6 minutes.

Mr. HOLLINGS. Mr. President, this morning, the Washington Post editorialized that a successful cloture vote "will take the votes of Senator FULBRIGHT and Senator ERNEST HOLLINGS, Democrat of South Carolina and a few others who disagree with Mr. BYRD on the bill but who are reluctant to vote for cloture."

Mr. President, that story is what prompts me to come to the floor because I have been working on other matters and I had left this debate to others who are far more intimate with the problem.

My position on this issue has been put clearly over the past few years in strong support of the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.)

I agree with him. I agree with his premise. I agree with his amendment.

With respect to being reluctant ever to vote for cloture, the Washington Post is also mistaken, in that I just voted for cloture within the past 10 days.

Specifically with relation to Rhodesian chrome, I learned long since, from listening to those with greater experience and wisdom than I that—as Lord Palmerston said a hundred years ago in England—England has no permanent friends, she has no permanent enemies, she has only permanent interests. So it is with America. A nation must move to protect its interests. The law of individual morality does not apply to national morality or to nations.

Would that it could be. We are one Nation under God. I believe that we move more ethically and we move more persuasively in the moral field, but we are not always allowed the luxury of individual morality in our diplomacy.

The premise of individual morality is self-sacrifice. But for the leader of a country, the primary duty is the safety and protection of the people. The last thing the Government leader does is sacrifice his Government or the interest and the safety of his own people. Individual morality and national morality are not one and the same thing.

I have always resisted, if I could, trying to exact our way of life on all other nations in accordance with the United Nations Charter. I wish someone was here in the Chamber now who supports the United Nations, because they so often quote the United Nations Charter and international law and the original preamble and the premises of the United Nations so that we do not interfere in the sovereignty or internal affairs of the several member nations.

Yet on other occasions they are ready and willing to do just that. And on the matter of the trade bill, I will join them. I have joined in the Jackson resolution. The distinguished Senator from Minnesota (Mr. HUMPHREY) has been the leader, along with Senator JACKSON, on that.

All I ask is that when we get to Rhodesia, let us not become suddenly holier-than-thou. I do not know where we come by this sanctimony now about the United Nations and its Charter.

Let us speak about the United States. Let us allude, as Palmerston urged, to the interests and well-being of the American people. The United States needs chrome. We are a steel-producing nation; 67.3 percent of the world's chrome supplies lie within Rhodesia. We tried to have an impact in Rhodesia, during the latter 1960's, by joining in the United Nations Sanctions. That effort was a total failure. All we did was cut our nose to spite our face. We learned that Russia—a Communist country—was taking chrome from Rhodesia and reshipping it to the United States at three times the cost.

Rather than exact the moral principles of self-government that we had hoped to bring about in a more vivid fashion with that particular United Nations resolution, in practice we found that we were rewarding probably an even more heinous situation in the Communist country of the U.S.S.R. and paying three times the price for it. That is why we passed the Byrd amendment 2 years ago. That is why the Byrd amendment is right for America.

Mr. President, this issue is very clear cut. I wish someone would come in here in these last minutes of the debate and argue the point, because I think we are all in support, generally speaking, of the free-fighting people of Israel.

We have under the United Nations Security Council, a unanimous resolution, No. 242, passed in November of 1967, which the Senator from Minnesota and everyone else was for.

Mr. President, I read a statement in the newspaper that several of the Senators debating this matter are saying, "Every right thinking person in Washington disagrees with the Byrd amendment." Well I disagree with them.

The PRESIDING OFFICER (Mr. CANNON). The 6 minutes of the Senator from South Carolina have expired.

Mr. HOLLINGS. Then I will have to yield.

Mr. HARRY F. BYRD, JR. Mr. President, does the Senator want an additional minute?

Mr. HOLLINGS. It struck me about the "right thinking people in Washington" statement that one of the most factual and lucid and right-thinking statements on this whole matter was delivered in this Chamber on Monday by the distinguished Senator from Nevada (Mr. CANNON). His speech covered the situation thoroughly and dispassionately.

He is chairman of the Armed Services Subcommittee on National Stockpile and Naval Petroleum Reserves and a recognized expert on the stockpiling of vital strategic materials. I wish I had the time to cover some of the points the distinguished Senator from Nevada made, but I know that time is limited. He is to be commended on the depth and quality of his statement.

I appreciate very much the courtesy of the Senator from Virginia in yielding me this time, and I commend him for the leadership and wisdom he has given us on this important matter.

Mr. HARRY F. BYRD, JR. Mr. Presi-

dent, I am very grateful to the Senator from South Carolina for his strong support.

Mr. President, I reserve the remainder of my time, and I hope that any time to run now will be counted against the opponents, who are not here to debate the bill.

The PRESIDING OFFICER. The Chair would advise the Senator from Virginia that if no one yields time, then time will run against both sides equally.

Mr. ROBERT C. BYRD. Mr. President, if the Senator from Virginia will yield me 10 seconds, I ask unanimous consent that the time on the first rollcall vote today be limited to 15 minutes rather than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. CURTIS. Mr. President, will the Senator from Virginia yield me some time?

Mr. HARRY F. BYRD, JR. I yield 2 minutes to the Senator from Nebraska.

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

Mr. CURTIS. Mr. President, I shall support the position of the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) and vote against cloture.

It is not my purpose in this brief time to discuss the merits or demerits of the proposal before us.

I invite attention to an extremism which appears in the title of the bill which begins, "To amend the United Nations Participation Act of 1945 and to halt the importation of Rhodesian chrome."

Now, Mr. President, people have a perfect right to argue their position on that. But what right has any Senator or any group of Senators to introduce a bill into the Senate the purpose of which is ". . . to restore the United States to its position as a law-abiding member of the international community"?

Mr. President, the United States of America is—I repeat is—a law-abiding member of the international community.

No nation in history has a more honorable record, has fewer blemishes in its history, or has been more generous toward all mankind.

Personally, I am suspicious of any piece of legislation that starts out as its premise, branding the United States of America as not being a law-abiding member of the international community. The title of this bill is outrageous. It shows the intent and purpose of the move.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time will be charged equally to each side.

Does the Senator from Minnesota desire to use his time or shall the time continue to run? The time is running against each side equally at this time.

Mr. HUMPHREY. It is the understanding of the Senator from Minnesota that each side has 15 minutes.

The PRESIDING OFFICER. Now 14½ minutes remain to the Senator from Minnesota.

Mr. HUMPHREY. I yield 3 minutes to the Senator from Wyoming.

Mr. McGEE. Mr. President, rather than review the long story of this business, I want to point out what is coming to a head here. What is really on the line is a delaying tactic to prevent the Senate from voting on the central issue. The central issue is not chrome from Rhodesia. The central issue is not repealing something just to repeal it. The central issue is, What is going to happen to the United Nations? It is the United Nations that is on the line here today.

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

Mr. McGEE. I have only 3 minutes.

It is already laid on the line that we have no longer any basic strategy consideration in the Rhodesian chrome issue. It is already laid on the line that we have no great trade considerations, with the exception of two or three companies. It is already on the line that labor in this country is being hurt by our violation of sanctions. It has already been laid on the line that the Byrd amendment impedes the efforts of the foreign policy of the United States, as testified to by the Secretary of State, Dr. Kissinger, as petitioned by the President of the United States. They ask that we get this off the books and get the United States back into the United Nations, with a clean record of integrity.

We cannot sneak out of the U.N. on the unilateral action of this body. If we are going to get out of the U.N., let us start legislation that says precisely that. Let us not bring in all this balderdash about chrome from Rhodesia.

So, Mr. President, that is the issue here, and every Member of this body ought to know what he is voting. He is voting to start getting out of the U.N. There are those who are telling us now, "Get the U.S. out of the U.N. out of the U.S." Let them say so. Let us be forthright about it.

The United States of America is the only member of the United Nations that has flagrantly, unilaterally defied its own action in that body. It means that if our credentials are to remain in good faith in a world community that, God knows, is troubled sufficiently now, that if the United States is to go back under the charter of the United Nations and protect its interests through that process, this amendment must be repealed. That is the whole issue.

We are only asking our colleagues here, in their consideration, that the Senate of the United States, which is being watched by the world at this moment, be permitted to vote on the question of repeal and not to hide behind the two-thirds majority required to achieve cloture.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. HUMPHREY. I yield myself such time as I may need.

I. THE UNITED STATES HAS VIOLATED INTERNATIONAL LAW AND BROKEN ITS TREATY OBLIGATIONS TO THE UNITED NATIONS

Article 25 of the U.N. Charter states that all member states are legally bound to comply with sanctions. Section 5(a) of the United Nations Participation Act of 1945 gave the President express authority to implement sanctions when imposed by the United Nations.

The United States fully supported sanctions against Rhodesia in the Security Council. At that time, we made a national commitment to comply with sanctions. We have broken our word.

We need now more than ever to build the faith of other nations in our commitment to treaty obligations and international agreements:

The international monetary situation is in a state of flux. We want to negotiate new agreements that reflect the new realities. And we want other nations to participate in these negotiations with confidence that we will abide by agreements made.

Some have questioned the strength of our commitment to NATO, wondering if we would, in fact, come to the defense of Europe if we felt the costs to the United States would be great. We are now seeking to reassure the European nations that NATO is still important to use and that we would defend democracy in Western Europe if it were threatened.

We are preparing for another round of trade negotiations in the GATT. We will want other nations to comply with the rules of the GATT and to trust that we will also comply with them.

We have recently finished one round of strategic arms limitation talks and are proceeding with another. If both sides live up to the commitments made at these talks, the threat of devastating war will be decreased and the drain of exorbitant defense spending on the economies of the United States and the Soviet Union will be lessened. The Soviet Union recently expressed its trust in the new "détente" and in these agreements by greatly reducing its defense budget. But we cannot keep this trust if we violate our international agreements.

Those who argue that the United States should not have to comply with international law and should not have to live up to treaty obligations when it is inconvenient for us would probably like to see this country isolated from the rest of the world. This is not possible.

The United States needs raw materials produced in other countries.

The United States needs markets for her exports and internationally observed rules for trade.

The United States needs arms limitation agreements and nuclear nonproliferation agreements if we are to be at all secure and if we want to use our resources to improve the quality of life in this country.

The United States cannot afford to live in a world where nations obey international law and fulfill treaty obligations only when it costs them nothing to do so. Yet in violating international law and breaking our treaty obligation to the United Nations, we are setting an example for the other nations to follow.

QUOTATIONS ON U.S. VIOLATION OF INTERNATIONAL LAW BY BREAKING SANCTIONS AGAINST RHODESIA

Ambassador Scali:

> Other nations, regardless of their feelings as concerns southern Africa, can only be alarmed over the challenge to international law, to the sanctity of treaties, and to the concept of collective security offered by Section 503 of the 1971 Military Procurement Act . . .

We could find that America's friends begin to doubt the dependability of an ally that is willing to disregard its obligations under a treaty central to the whole concept of collective security, as the U.N. Charter.

Former Chief Justice Earl Warren:

This nation has never made a more solemn or fateful commitment than it made when it ratified, by an overwhelming majority, the treaty commitment represented by the Charter of the United Nations. Under that treaty, we firmly committed ourselves to observe, abide by and carry out the orders of the Security Council where the veto gave us the power to block any action with which we disagreed . . . there was a profoundly negative significance in the . . . action of our Congress in voting to violate our treaty commitment and authorize the importation of Rhodesian chrome ore.

II. THE VIOLATIONS OF INTERNATIONAL SANCTIONS AGAINST RHODESIA HAS SERIOUSLY UNDERMINED OUR PRESTIGE AND EFFECTIVENESS IN THE UNITED NATIONS

The General Assembly has passed four resolutions appealing to the United States Government not to implement legislation allowing the importation of goods under sanctions. Another resolution was passed by the General Assembly requesting "states with legislation permitting the importation of minerals and other products from Southern Rhodesia to repeal it immediately."

The United States has had increasing difficulty in marshalling the votes we need in the General Assembly on issues of importance to us. Our violation of a commitment made by the member states of the U.N., a commitment which is extremely important to many of these states, makes it much harder to get their cooperation on issues of importance to us.

The United States is committed to the United Nations. We were instrumental in forming it. Secretary of State Kissinger recently reaffirmed—in a speech before the U.N. General Assembly—our commitment to this organization which is more important to us now than when it was formed:

My country remains committed to the goal of world community. We will continue to work in this parliament of man to make it a realty . . .

We strive for a world in which the rule of law governs and fundamental human rights are the birthright of all. Beyond bilateral diplomacy, the pragmatic agreements and dramatic steps of recent years, we envisage a comprehensive, institutionalized peace encompassing all nations, large and small—a peace which this organization is uniquely situated to foster and to anchor in the hearts of men. . .

In this spirit we ask this Assembly to move with us from détente among the big powers to cooperation among all nations, from coexistence to community.

These appear to be empty words when the United States is violating sanctions imposed by the United Nations on the grounds that "fundamental human rights are the birthright of all."

The United States had the power to veto the sanctions resolutions in the Security Council; but we did not. We gave our full support to those resolutions.

How can we expect nations which do not have the veto power in the Security Council to comply with U.N. decisions when we who have the veto power do not comply with them?

We believe the Security Council must be able to act quickly and effectively in order to avert war, avoid the escalation of violence.

International sanctions is the most effective non-violent weapon the Security Council has to counter violence. This is the first time in the history of the U.N. that this weapon has been used.

In violating these sanctions, we have undermined the effectiveness of the Security Council. By setting the example of a permanent member violating a commitment made in the Security Council, we have perhaps weakened the binding nature of agreements made there.

This undermining of the Security Council runs counter to our stated commitment to making this body a stronger instrument in the maintenance of world peace.

During the recent Middle East crisis we saw the importance of a strong Security Council. It is important that both sides view the agreement made there as binding.

Senator CANNON pointed out that the Arabs were violating a United Nations agreement in withholding oil from the United States.

Was he implying that the United States should follow the lead of the Arab States in violating commitments to the United Nations?

Is it not more accurate to assume that the Arab States were following the lead of the United States?

This country played a major role in founding the United Nations. We have the power to veto any decision made by the U.N. If we refuse to comply with our treaty obligations to the U.N., we can only expect other states to follow our example.

III. OUR VIOLATION OF SANCTIONS AGAINST RHODESIA HAS SERIOUSLY DAMAGED OUR RELATIONS WITH THE OTHER AFRICAN STATES

We cannot dismiss lightly the impact our seeming support of white supremacy in Rhodesia has had on our relations with the African States. These States are becoming increasingly important to the United States as a source of valuable raw materials, a market for our products and a focus of foreign investment.

An example of how our stand on white supremacy could seriously hurt us economically is our relations with Nigeria.

In an article from the December 10 Washington Post, David Ottaway pointed out:

American-Nigerian relations seem only correct, not close.

Nor are the prospects for an improvement in U.S. ties with Nigeria particularly bright. There is little appreciation here for what Nigerians regard as an American policy of strong support for white-ruled southern Africa and Portugal's colonial African wars.

With Nigeria now taking on a leadership role, the chances for a more open clash between the two countries seem good and Nigeria is not without the means to pressure Washington over its African policy.

American business has a $1 billion investment here already, mainly in the oil industry. The amount is likely to double over the next few years, making Nigeria more important to U.S. investors than South Africa.

In addition, American industry, homes and cars are now getting over 700,000 barrels of Nigerian oil directly or through the Caribbean, establishing this country as a major source of fuel supplies for the United States.

David Newsom, Deputy Assistant Secretary of State for African Affairs, has stated:

In my four years as Assistant Secretary the exemption on Rhodesian sanctions has been the most serious blow to the credibility of our African policy . . . The impact is greatest in countries where we have very specific interests, such as Nigeria and Kenya, and is greatest among the youth who are the coming generation in Africa.

At their independence, the African States held the United States in high regard because we were committed to human rights and racial equality. We have now lost the trust of many of these states because our commitment to human rights and racial equality in Southern Africa seems extremely shallow. We have not even been willing to make the modest sacrifice of complying with sanctions against Rhodesia in defense of these principles. The African States are beginning to look to other friends—the Arab States—which have shut off oil to South Africa, Rhodesia and Portugal—the Soviet Union and the People's Republic of China—which support the liberation movements.

Those who say the African States do not really care about racial oppression in Southern Africa are engaging in wishful thinking.

The Organization of African Unity was founded to promote the liberation of the African States dominated by white minorities.

South Africa, Rhodesia, Angola, Mozambique, and Guinea-Bisau represent the anachronistic remains of racial oppression on the continent. This is particularly offensive to countries which have recently become independent and proven their ability to govern themselves.

African States bordering on the white-dominated states have been particularly vocal in their criticism of these regimes. They have harbored liberation movements, at great peril to themselves. Among these states are Zambia, the world's leading exporter of copper, and Zaire, a country wealthy in raw materials and the supplier of a 90 percent of our cobalt.

African States comply with sanctions against Rhodesia, some at great cost. Zambia has had to reroute most of her trade at great expense in order to comply with sanctions.

The African States and nonwhite states throughout the world see white supremacy in southern Africa as one of the most important international political issues. If the United States is to keep the trust of these countries, if we are to convince them that we want to share as equal partners in the development of their valuable resources, then we will have to prove that our commitment to human rights and racial equality is a real one.

IV. U.S. VIOLATION OF SANCTIONS HAS UNDERMINED THE CREDIBILITY OF OUR COMMITMENT TO INTERNATIONAL COOPERATION IN THE PEACEFUL RESOLUTION OF CONFLICT

Sanctions are the most effective weapon the international community has to apply nonviolent pressure on nations which pose a threat to international peace.

They were imposed on Rhodesia because it was recognized that the attempts of the white minority there to govern the black majority by force posed a serious threat to international peace.

It was hoped that sanctions would force the illegal regime to reach a negotiated settlement with the black population.

The chances for such a negotiated settlement are now greater than ever before:

A new political party committed to a nonviolent transition to majority rule has won the support of the African population in Rhodesia. This party is seeking negotiations with the white minority regime.

On May 22 of this year the Security Council passed a resolution calling for a strengthening of the sanctions program. This is likely to close the biggest gaps in the sanctions program.

The United States can either join the rest of the international community in this attempt to strengthen sanctions and force the regime to negotiate; or we can continue to give moral and economic support to Ian Smith in his attempt to maintain his rule through force.

Those who argue that sanctions against Rhodesia are unjustified because it is not a threat tc international peace do not know the facts:

In the past year, 20 Zambian civilians have been killed by Rhodesian land mines along the Rhodesia-Zambia border.

In the last few months, there have been reports of Rhodesian army raids into Mozambique.

This violence is likely to grow and to continue to spread to neighboring states if a negotiated settlement is not reached, and if the Africans find they have no way of winning their rights other than through violence.

If our claims that we seek negotiated settlements of disputes are to be credible at all, we should support this attempt to use international pressure to force the Rhodesians to negotiate.

Mr. President, the Senator from Wyoming, who just addressed the Senate, and who has to attend a meeting on the Defense Appropriations, stated the case very well.

It is my understanding that today we will be opening our debate on the Defense Appropriations, a bill that will involve well over $70 billion. We are going to dispose of that bill within a day. But when we come to an issue such as the one now before the Senate—namely, the fulfillment of our obligations under international law and treaty—we have delay, delay, and delay.

Whether we individually like it or not, article 25 of the United Nations Charter states that all member states are legally bound to comply with sanctions. I have heard, of course, that there are all kinds of violations of sanctions, and there is no doubt about that.

But ours is the only government of any major consequence that by an act of its parliament has seen fit to violate our commitments and obligations under the treaty. I do not say that we could not do it; I simply say it is wrong to do it.

The United States fully supported sanctions against Rhodesia in the Security Council. At that time we made a national commitment to comply with sanctions, and we have broken our word. I heard it said in the Senate the other day that, after all, the Arab States were engaged in a kind of embargo with sanctions; that they have violated the Charter. That is true. But we are not in much of a position to condemn them; we are not in much of a position to condemn the Arab nations for having violated their obligations under the Charter. If we, by act of Congress, condemn them for violating the Charter, we have weakened our own position.

I have heard it argued that economic growth in Rhodesia will be beneficial to the African population if we buy chrome from Rhodesia; that that will mean that everybody in Rhodesia will be better off. Mr. President, the argument that economic growth in Rhodesia will be beneficial to the development of Rhodesia must be judged against the economic growth as it affects everyone in South Africa. Equal rights will give the white regime in Rhodesia more power and will give them the resources to break down the kind of power that now exists in that country and exists in South Africa.

So I do not think we make a case for what we have done under the so-called Byrd amendment by saying that everybody else is doing it; why not us?

Mr. President, our Government, through acts of Congress, has violated the law. What is more important, the United Nations itself has, from time to time, expressed its concern over our violation of the Security Council resolution of sanctions against Rhodesia. The General Assembly has passed four resolutions, appealing to the U.S. Government not to implement legislation which would allow the importation of goods under sanctions.

Another resolution was passed by the General Asembly, requesting that states which have passed legislation permitting the importation of minerals and other products from Southern Rhodesia, repeal them immediately. We are paying a heavy price for that kind of action.

The United States has had increasing difficulty in marshaling the votes we need in the General Assembly on issues of importance to us. Our violation of a commitment made by the member states of the United Nations, a commitment which is extremely important to many of these states, makes it much harder to get their cooperation on issues of importance to us.

I again refresh the memory of Senators that we are acting in cooperation with countries in Africa.

Maybe it should be noted once again how much this country consumes and how much of it we have to get from other people. In the energy field, with 6 percent of the world's population, we consume over 35 percent of all the energy in the world. With 6 percent of the world's population we consume over 40 percent of all the natural resources produced in the world. It just so happens that Africa is a treasurehouse of resources vital to the economic growth and development of the United States.

We have observed how the Arab countries can take action because they did not like our policy. One of these days the African countries are going to say they do not like our policies and they are going to shut off materials like tin, iron, manganese, cobalt, and a host of materials necessary for this Nation. But there is a better way to do things. The better way is to cooperate; the better way is to do what is right.

We do not condone in the United States 5 percent of the people controlling 95 percent of the people. We believe in one man, one vote.

But Rhodesia is a flagrant example of the minority controlling the lives of a vast majority. Rhodesia is an insult to the whole concept of equal rights and equal treatment under the law. We are not arguing just chrome here. We are arguing political principles.

I heard the argument here not long ago that, after all, Rhodesia declared her independence from Great Britain just as we did. Fine. But let me tell Senators there is a lot of difference in declaring independence and saying that all men are created equal, and that they are endowed by their Creator with certain inalienable rights, and among these are life, liberty, and the pursuit of happiness. That is not what Rhodesia says. Their unilateral independence declares that a certain 5 percent of the people are more equal than others. To the everlasting credit of Great Britain, she said that when a country was breaking away from their empire and declaring independence, they wanted it on the basis of equality of treatment for their citizens.

Mr. President, I join with many people who have spoken on this matter: The President of the United States, the Secretary of State, the Secretary of Defense, the Ambassador to the United Nations, the former Chief Justice of the United States, and a host of editorial opinion in this country asking us to do a very simple and decent thing; namely, to abide by the law to fulfill our obligations under treaty; to do what is right. The labor movement of this country representing the working people has come in to testify in support of the resolution before us and against the so-called Byrd amendment. The witnesses who have come in to support the Byrd amendment are those that are in certain types of steel industry, and mainly one company.

I submit that the action that was taken here is not good for American mining; it is not good for American industry; it is not good for our position in the world community; it is not good for our long-term needs for resources.

In other words, we have locked ourselves in by the so-called Byrd amendment to a position that is detrimental to us politically, socially, and economically. We have the opportunity now to correct that wrong.

Ambassador Scali, speaking in the United Nations, said it well when he said:

> Other nations, regardless of their feelings as concerns southern Africa, can only be alarmed over the challenge to international law, to the sanctity of treaties, and to the concept of collective security offered by Section 503 of the 1971 Military Procurement Act . . .
>
> We could find that America's friends begin to doubt the dependability of an ally

that is willing to disregard its obligations under a treaty central to the whole concept of collective security, as the U.N. Charter.

The PRESIDING OFFICER. All of the Senator's time has expired.

Mr. HARRY F. BYRD, JR. Mr. President, I yield 2 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, I rise in defense of the Charter of the United Nations and also in defense of the Constitution of the United States. I think the Byrd amendment is in harmony with both of these documents.

Rhodesia is either a part of the British Empire or it is an independent country. How the voting is done in Rhodesia is an internal matter, just as it is in the United States as to who is eligible to vote.

I do not approve of the actions of Rhodesia in some respects but neither do I approve of the action of Russia in many respects, and as a result of the embargo on chrome from Rhodesia we have been buying chrome from Russia.

The Charter of the United Nations states in section 7 of article 2, chapter 1:

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

There is nothing in the Charter which gives the President of the United States rather than Congress the power to regulate our foreign commerce. The Byrd amendment is absolutely consistent with the Charter of the United Nations and it is consistent with the provisions of the Constitution which states that Congress and not the United Nations and not the President shall regulate the foreign commerce of the United States.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from North Carolina.

Mr. President, I yield 1 minute to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. I thank the Senator from Virginia.

Mr. President, one thing that rubs me about this bill is the title that says it is going to help the importation of Rhodesian chrome and restore the United States to its position as a law-abiding member of the international community.

I wonder why our country is not right sometimes in the eyes of leading political figures here in the Senate and the Nation. Why is our adversary always in the right and why are we not sometimes in the right?

Another thing to which I object is the statement made on this floor that the provisions of the United Nations' Charter have equal standing with the Constitution of the United States. The next thing you know, Mr. President, when the President and the Vice President take office they will have to swear to support and defend the Constitution of the United States and the Charter of the United Nations.

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

Mr. HARRY F. BYRD, JR. Mr. President, I cannot accept the premise that this legislation enunciates, namely, that any action of the Security Council of the United Nations, in the words of the sponsors of S. 1868, becomes the same as part of the Constitution of the United States and the supreme law of the land. I cannot accept that.

The title of this measure says that the United States is not a law-abiding member of the international community. I refer to the title of the pending legislation.

The pending amendment which this legislation would repeal has been tested in the courts of the United States. It has been upheld by the courts of the United States.

I also point out that when the legislation was enacted 2 years ago it received support from representatives from 46 of the 50 States.

I make one final comment, and that is that I have been trying hard for some time to get the chief sponsors on the floor where I could have a debate with them, but only last Friday did I have the opportunity to have a debate with the chief sponsor of this bill, the distinguished and able Senator from Minnesota.

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

Mr. HARRY F. BYRD, JR. I think it would be a great mistake to invoke cloture. There are a lot of questions I want to address to him. I was here last night when the Senate adjourned, ready and willing to ask questions about this proposal, because there are many questions I want to ask the Senator.

Mr. TAFT. Mr. President, we have been hearing a great deal of talk about the moral aspects of trade with Rhodesia. I feel that most of the statements we have heard have been oversimplifications. In fact, the moral issue of this trade is vastly more complex than it might seem on the surface.

The first moral question we must ask ourselves—and it is a very serious question—is how we can best help the people of Rhodesia, black and white, move toward a racially just society, rather than strut our good intentions about on the public stage. In the latter respect, denunciations and condemnations might be in order, and economic sanctions would be a proper tool. Such sanctions would purport to show the public that we, in our morally superior position, will not associate with those who do not view all men in their nations as equal in rights.

If, however, our morality causes us to feel responsible for the results of our actions as well as for our intentions, we must be more cautious. We must review the effects that sanctions have had upon race relations in Rhodesia, and consider whether another course of action might not yield better results.

When Rhodesia declared her independence from Britain, she did not have an apartheid system and racial separation was more a product of economic than political and legal segregation, and, however much we deplore any segregation, that based on wealth can sometimes be overcome by the efforts of the individual and by social change. What does the application of sanctions seem to have done to this situation? Firstly, it pushed Rhodesia economically into the arms of South Africa. This economic relation fostered closer political relations, in terms of domestic as well as foreign policies. In other words, it facilitated and encouraged the importation of apartheid into Rhodesia.

But more importantly, sanctions replaced the confident and, compared to South Africa, more relaxed attitudes of the white Rhodesians with an outlook of fear and tension—an outlook which produced rigidity and a siege mentality. The feeling of having their very existence threatened led the whites of Rhodesia to become, not more accommodating with their black fellow countrymen, who were, supposedly, being helped by the sanctions, but harsher and more rigid toward them. I think that even an amateur psychologist should understand the inevitability of this reaction by the white Rhodesians.

As Rhodesia provides an example of how sanctions, with their attendant economic and psychological hardships, cause deterioration in race relations, so we see how in the same time period prosperity has tended to break down racial barriers in South Africa. The economic pressure of the need, in a booming economy, for skilled labor, coupled with the confident and relatively secure attitude of white South Africans, has brought about a degree of rapid removal of barriers of apartheid. I ask permission at this time to insert into the RECORD an article from Time magazine of October 25, 1973, describing this breakdown of apartheid:

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

SOFTENING APARTHEID

For more than a generation, the cornerstone of South Africa's internal policy has been apartheid, or "separate development" for the country's 16 million blacks, 4,000,000 whites, 2,000,000 "coloreds" (mixed bloods) and 750,000 Asians. To protest such racist policies, the United Nations General Assembly last week refused, by a vote of 72 to 37, to accept South Africa's credentials. It was a symbolic gesture, signifying the assembly's disapproval but carrying no force to keep the nation from taking its place in the U.N. Time Correspondent Lee Griggs recently traveled extensively throughout South Africa for the first time in eleven years to assess the plight of blacks. He discovered that in countless ways the granite-hard face of apartheid is cracking.

In perhaps the most significant modification of apartheid since it became national policy in 1948, Prime Minister John Vorster last week virtually abandoned the Job Reservation Act, under which the best jobs in the country have long been reserved for whites. Though the law will remain on the books, Vorster declared that, if employers and trade unions approve, the government will allow more and more blacks to move into skilled jobs. The goal, he said is to find ways to improve "the productive use of non-white labor."

The reasons for the change are hardly altruistic. South Africa's booming economy is faced with a white-labor shortage, and the obvious solution is to train blacks to fill the gap. Blacks now drive trucks, and super-

vise shunting in rail yards; soon they will take over 14,000 mining jobs formerly reserved for whites. The change is also a result of continuing social pressures—the migration, for example, of Afrikaner farmers who are moving to the cities and becoming partly liberalized in the process.

Whatever the reasons, the effects are visible everywhere. In the capital city Pretoria, public parks were integrated a few weeks ago. On a recent evening in Pretoria's new luxury hotel, the Burgerspark, the dining room was filled with almost as many black guests as white. Elevators may still carry "Slegs vir blankes" (reserved for whites) signs, but the rule is ignored. Whites stand beside blacks in many of the same queues. Air travel is integrated. Some parishes of the Dutch Reformed Church now permit multiracial attendance at weddings, funerals and other services.

The Immorality Act, which bans interracial sex, is still in force, but prosecutions are rare. Even the courts seem to be mellowing. A black man recently sued and collected damages from a white who had called him a kaffir (the South African equivalent of nigger). Ever since blacks and whites competed against each other in body-contact sports at the South African Games last January, integration in athletic events has been increasing. This month blacks played against whites for the first time in an international cricket tournament.

AID CENTERS

One of the most hated aspects of apartheid has been the "pass laws," which require blacks to carry permits whenever they travel outside the semiautonomous black regions called Bantustans. The pass laws are still in effect, and more than 600,000 blacks were arrested last year for violating them. But nowadays an offender is less likely to be automatically jailed for a pass-law transgression or other minor infraction—partly because of the work of a string of government "aid centers" that have been established to help blacks cope with the law. Moreover, the area within which a single pass is valid has been increased—from about 50 miles to as much as 180 miles.

None of these changes exactly qualifies John Vorster for a human-brotherhood award. South Africa's blacks, after all, still have no vote, no right to own property and no real freedom of movement outside the black regions. And, given the depth and prejudice of white South Africa's attitudes, it remains to be seen whether a profound social change has really begun. But the short-term trend is clearly toward modest liberalization, particularly in business and industry, and for this the Vorster government deserves a measure of credit.

Mr. TAFT. It seems clear, not only from these examples, that prosperity is one of the best tools for breaking down social barriers in a society, and, conversely, that the tension arising from adverse economic pressure and from outside moral condemnation may strengthen such barriers. I thus return to my original question: Are we concerned only with a showing of moral rectitude, or are we genuinely interested in helping the people of Rhodesia, white and black, toward resolving racial and nation dividing problems? In the latter case, I suggest that sanctions are probably counterproductive.

Further, I must suggest that the direction in which sanctions are pushing Rhodesia—a direction for which, also, the white Rhodesians bear heavy responsibility—is toward the ultimate moral catastrophe, racial war. It is clear to all of us, I think, that such a tragedy must be avoided, that the course of events must be reversed.

But sanctions have not reversed it and show no promise of reversing it. Can our morality permit us, then, to continue sanctions, to vote to strengthen them? I submit that, as we must try to bring Rhodesia on to a different course, so we must take a different course ourselves. All the good intentions in the world will not remove our moral responsibility if we vote to continue sanctions, and those sanctions help push Rhodesia into racial war.

There has also been a great deal of talk about the moral and practical necessity for the United States to comply with the United Nations resolution imposing sanctions on Rhodesia. Were the United Nations acting consistently on the basis upon which sanctions were imposed on Rhodesia, and were the other members of the U.N. acting, in their trade policies, as they vote in the U.N., this would be true. In fact, in both cases the U.N. betrays astounding hypocrisy from which we should be trying to rescue it.

In terms of the action of the U.N. collectively, the sanctions on Rhodesia have moral value only if they are coupled with sanctions against all nations which, as a policy, discriminate against minorities. If this is U.N. policy, where are the sanctions against other oligarchies and the Soviet Union, a nation which, in the view of many, is equally harsh on minorities as is Rhodesia? In fact, Rhodesia suffers sanctions because she is a small nation. Others do not suffer them because they are bigger or more favored in their allies. I will leave to my distinguished colleagues the judgment of the moral worth of that basis of so condemning a nation.

Furthermore, it is no secret that many members of the U.N. voted sanctions with great fanfare, then ignored them as soon as they or their nations smelled a profit. These Nations—I include the Soviet Union among them—now denounce us as immoral for doing openly, by act of Congress, a right always reserved by our constitution, what they have done with falsified shipping documents and third-flag freighters. Again, I leave judgment of the worth of these denunciations up to my colleagues.

In fact, the sanctions were voted originally and are clamored for now by the U.N. not as a reflection of any general, consistent, morally based policy, but because of the political strength of the Afro-Asian bloc. And what the whole affair points out is the need for facing up to the power, in the U.N. and elsewhere, of that bloc. If the U.N. is to be effective, it cannot be dominated by any group representing a special power and interest bloc.

I have always stood for the strengthening of international institution and international law. I currently have pending before the Senate Foreign Relations Committee five resolutions designed to strengthen the International Court of Justice. The case of the U.N. sanctions against Rhodesia is a good example of why our international institutions need to be reformed and strengthened. The best way to deal with the Rhodesian problem, and with all problems involving repressive policies on the part of a State, would be through fair, impartial, and universally accepted and respected international organizational courts. The U.N. dominated as it has been on such questions by the interests of the Afro-Asian bloc, can make no legitimate claim to these qualities.

Let us, then, instead of agreeing to the current hypocritical situation in the U.N. by caving in to the Afro-Asian bloc, take the lead in reforming the U.N. and the other international organizations such as the International Court of Justice. Let us have the courage, first, to demand the end to a masquerade of politics in the cloak of righteousness, and insist on real justice, real fairness, real morality in and from these bodies. Then, the United States will adhere, by law, to these organizations' decisions.

There is, finally, a moral aspect to the wider political implications of a caving in, in the name of "morality," to the demands of the Afro-Asian bloc. The next target of that bloc is our ally, Portugal. Portugal is vital to our defense structure and Europe's. But more importantly, in the face of a very important moral issue, the rescue of Israel from the recent onslaught of her neighbors, only Portugal, among all our allies, had the courage to give us use of the facilities we needed to resupply Israel. This decision by Portugal—which has led the Arabs to redouble their help to the Rebels in the Portugese overseas provinces—had moral implications, and those of us who support Israel's right to exist have a moral debt to Portugal. I submit that the demands by the Afro-Asian bloc for our abandonment of Portugal should be examined and rejected, morally as well as politically, as not acceptable to us.

Accordingly, I will cast my vote against S. 1868. I urge my colleagues to consider seriously the real moral questions of this bill, the cause of peace and strength, before they make their final decision on this issue.

Mr. KENNEDY. Mr. President, I am pleased to take this opportunity to express, once again, my full support for S. 1868—because this legislation will restore the U.S. commitment to the United Nations resolution which imposed economic sanctions against Southern Rhodesia.

The United States stands as the only country in the world to actually enact a law that breaks the United Nations agreement on this matter. When section 503 of the Military Procurement Act was written into law in 1971, that provision allowed shipments of more than 70 commodities to enter U.S. ports from Southern Rhodesia. Presumably, only imports of strategic and critical materials were authorized under section 503. It is conceivable that chromium ore might fit that category, but no one has adequately explained why the Treasury Department issued an import license to also allow goose down to be exported from Rhodesian farms.

The entire handling of this sensitive issue has been clouded and distorted well beyond reasonableness. For the arguments used in 1971 and in 1972 by proponents of section 503 proved to be wholly

unfounded and baseless. Congress succumbed to six spurious contentions in 1971; namely, that:

First. A roll back of sanctions would end the U.S. dependence on the Soviet Union for chrome ore—a critical material whose shortage could endanger the national security.

Second. The chrome amendment would stop the inflationary rise in the price of Russian chromite since the availability of Rhodesian chromite would halt the rise in Russian prices.

Third. The United States was not acting realistically. Other nations were violating the sanctions, so there was no reason for the United States to continue sanctions.

Fourth. American jobs would be lost unless Rhodesian chrome could be imported to keep the industry competitive. According to this theory, the U.S. ferrochrome industry was being threatened by the sanctions.

Fifth. Sanctions prohibit free trade. And the removal of sanctions would be wholly in the interests of the United States because that would stimulate free trade.

Sixth. Finally, it was claimed that the United States had no legal basis for meddling in the internal affairs of another state. This argument contended that the President had no authority to maintain sanctions since the Congress never voted for the American sanctions program.

These are the arguments used during congressional debates in the fall of 1971 when our Government stumbled into its indefensible position on this important matter. Twenty-three months have elapsed since the chrome amendment was passed and the scorecard on the actual effects of this amendment is most dramatically described by the U.S. Ambassador to the United Nations—the Honorable John Scali. In his testimony last September, before the Senate Foreign Relations Committee, Ambassador Scali discussed "* * * the costs the United States pays for keeping" the chrome amendment on the books.

First, the Ambassador cited the direct economic costs of the amendment. In exact contrast to the claims made by chrome proponents—the amendment's 23-month history demonstrates that several U.S. factories are suffering serious losses because of chrome imports. For those who claimed jobs would be lost unless imports were allowed, the truth is that at least one firm is threatening to close its plant with over 300 workers, due to the imports of ferrochromium.

Second, Ambassador Scali cited his personal experience about the effect the chrome amendment has on our foreign relations. He declared that there is no question that the United States is paying a price far out of proportion to any benefits that "section 503 has brought, or might ever bring, our country." The attitude of many nations as seen by Ambassador Scali, "is that if the United States is going to take a position detrimental to their interests on an item of little concern to us but of great importance to them, they will do the same to us when they get the opportunity." Not only the governments of black Africa are concerned about section 503, but the British Government has made it clear that the repeal of section 503 would aid negotiations to solve the British-Rhodesian impasse. Yet, no one knows better than Ambassador Scali that the chrome amendment gives the rebel Rhodesian regime an undeserved psychological boost. As long as the United States violates the sanctions agreement, Rhodesia's Ian Smith can feel assured that his country's Government has a willing ally in the United States.

Perhaps, the most persuasive reason for demanding an end to the chrome amendment is to simply accept the fact that the United States does not need chrome from Southern Rhodesia for strategic defense requirements or for any other reason. One day after the first shipment of Rhodesian ore docked at a Louisiana port last year, the Senate approved a bill to permit U.S. firms to obtain over 80 percent of the chrome ore from our vast inventory of excess stockpiled ore.

It is clear that the dire predictions made by proponents of the chrome amendment 2 years ago failed to materialize. Indeed, there are explicit illustrations that the amendment has backfired. For that reason, it is vital to fully consider what would emerge if S. 1868 were enacted.

There was never any real validity to the argument that chrome imports were vital to our national security. The present administration has severely challenged claims that the United States ought not to depend upon trade with the Soviet Union. The Russian wheat deal, the multibillion dollar natural gas negotiations with Russia and the overall détente that the United States has established with the Soviet Union have totally erased any basis for that argument in the chrome issue.

Above all, there is the international legal obligation that the United States made in 1966 and confirmed in 1968. We voted for sanctions in 1966 because we believed that it was in our country's best interest. If we had vetoed sanctions, that would have been one issue. But we did not.

And so our violation of that sanction agreement broadcasts to the world what price the United States puts on its word. Let us act now to affirm the claim that all people must be granted personal rights, self-determination and fundamental freedoms. Let us take the first step in that direction and enact the provisions of S. 1868.

Mr. HELMS. Mr. President, the current campaign against the Rhodesian nation is a contradiction wrapped in an absurdity and cloaked in a confusion.

It is a contradiction to punish Rhodesia for its sins, while in the process giving a huge windfall benefit to one of the most wicked regimes in the history of the world.

It is absurd to act against Rhodesia at the behest of a majority vote of the United Nations, when the fact is that the United Nations contains a clear majority of nations which—to put it charitably—are in no position to be giving moral advice to anyone, at any time, for any purpose.

It is confused—confused beyond the dreams of mad logicians—for the United States to be concerning itself with this minor matter of Rhodesia, at a time when the most basic presupposition of our recent foreign policy—détente—is in peril.

Mr. President, I want to explain each of these three points.

First, consider the matter of punishing Rhodesia for its alleged sins, while, in the process, conferring a blessing on demonstrably one of the world's wickedest regimes.

Has Rhodesia sinned? Some say it has.

Is Rhodesia sinning now? Some say it is.

Do these contentions, even if everyone would agree they are accurate, distinguish Rhodesia in any way from every other nation that has existed, does exist or will exist? No, they do not.

The point is, we cannot punish Rhodesia without giving aid and comfort to a regime, the wickedness of which causes Rhodesia's inadequacies to pale to insignificance. I am referring, of course, to the Soviet Union.

It is no secret that the key question before us is whether the United States shall import chrome from Rhodesia.

The United Nations wishes we would not do this. Some in the U.S. Government wish to go along with the United Nations—in this instance, if not invariably.

But few people wish to squarely confront this crucial fact. The United States is going to buy chrome from somewhere and it is not hard to project where that "somewhere" will be if we are denied access to Rhodesian chrome. That "somewhere" will be the Soviet Union.

I do not need to dwell on the contradiction involved in this. Rhodesia, for all her failings, is nothing like the sinister, comprehensive totalitarian tyranny that the Soviet Union is.

Rhodesia, whatever may be her failings, is no threat at all to the peace of her region of the world. The Soviet Union is the biggest threat to the peace of the entire world that the world has ever known.

Rhodesia, whatever her failings is no kind of threat at all to the security of the United States. The Soviet Union is the principal threat to the security of the United States.

Now let me deal with the second point.

It is absurd—literally, absurd—for the United States to act against Rhodesia—or any other nation—because Rhodesia—or any other nation—fails to meet the "high moral standards" decreed by a majority of the nations in the United Nations General Assembly.

Mr. President, we should speak plainly about this.

A majority of the nations in the United Nations are not models of democratic freedom. And a large portion of those nations which are most vigorously denouncing Rhodesia for her racial policies, themselves are hardly models of racial tolerance or political liberty.

My point is simply that a majority vote in the United Nations lacks force—with me, at least—and will, I hope, lack force with the U.S. Congress. There cer-

tainly is no reason for us to compromise our national interests to appease the mob instincts of the majority of nations in the United Nations General Assembly.

And the matter of our own national interests brings me, Mr. President, to the matter of confusion. Specifically, it brings me to the matter of the confusion involved in the expenditure of our time and energy punishing Rhodesia at a time when we are engaged in a confrontation with the Soviet Union, the nation that stands to gain most from a ban on imports of chrome by the United Nations.

The Soviet Union today is in mortal—and, be it noted, expensive—contest with us in the Eastern Mediterranean. Yet if we stop importing chrome from Rhodesia, we will become the Soviet Union's best—and, very likely her captive—customer.

This, Mr. President, is the confusion that compounds the absurdity that amplifies the contradiction involved in an attempt to ban U.S. chrome imports from Rhodesia.

I do hope that this Senate will not invoke cloture on debate on this very unwise bill. It is dangerous, and enactment of it must be prevented.

The PRESIDING OFFICER. The time for debate has expired.

Mr. HUMPHREY. I have been asking for weeks to have this legislation brought up——

The PRESIDING OFFICER. The time for debate has expired. The Senate will be in order.

CLOTURE MOTION

The PRESIDING OFFICER. All time for debate having expired, the clerk will now read the motion to invoke cloture.

The second assistant legislative clerk read the cloture motion, as follows:

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 1868), a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

Mike Mansfield	George McGovern
Gale W. McGee	Abraham Ribicoff
Hubert H. Humphrey	Harold E. Hughes
Edward W. Brooke	Frank E. Moss
Floyd K. Haskell	Daniel K. Inouye
Jacob K. Javits	Lee Metcalf
Quentin N. Burdick	Dick Clark
Clifford P. Case	Ted Stevens
Alan Cranston	Edward M. Kennedy
Edmund S. Muskie	Jennings Randolph
Philip A. Hart	

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 576 Leg.]

Abourezk	Bayh	Bible
Aiken	Beall	Biden
Allen	Bellmon	Brock
Baker	Bennett	Brooke
Bartlett	Bentsen	Buckley
Burdick	Hatfield	Packwood
Byrd, Harry F., Jr.	Hathaway	Pastore
Byrd, Robert C.	Helms	Pearson
Cannon	Hollings	Pell
Case	Hruska	Percy
Chiles	Huddleston	Proxmire
Clark	Hughes	Randolph
Cook	Humphrey	Ribicoff
Cotton	Inouye	Roth
Cranston	Jackson	Schweiker
Curtis	Javits	Scott, Hugh
Dole	Kennedy	Scott, William L.
Domenici	Long	Sparkman
Dominick	Magnuson	Stafford
Eagleton	Mansfield	Stennis
Eastland	Mathias	Stevens
Ervin	McClellan	Stevenson
Fannin	McClure	Taft
Fong	McGee	Talmadge
Goldwater	McGovern	Thurmond
Gravel	McIntyre	Tower
Griffin	Metcalf	Tunney
Gurney	Mondale	Weicker
Hansen	Montoya	Williams
Hart	Moss	Young
Hartke	Muskie	
Haskell	Nelson	
	Nunn	

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Arkansas (Mr. FULBRIGHT) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is detained on official business.

VOTE

The PRESIDING OFFICER (Mr. CANNON). Pursuant to rule XXII, a rollcall has been had, and a quorum is present.

The question before the Senate is, Is it the sense of the Senate that debate on S. 1868, a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Arkansas (Mr. FULBRIGHT) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

On this vote, the Senator from Arkansas (Mr. FULBRIGHT) is paired with the Senator from Idaho (Mr. CHURCH) and the Senator from Missouri (Mr. SYMINGTON). If present and voting, the Senator from Arkansas would vote "nay" and the Senators from Idaho and Missouri would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is detained on official business.

The yeas and nays resulted—yeas 62, nays 33, as follows:

[No. 577 Leg.]

YEAS—62

Abourezk	Hartke	Muskie
Aiken	Haskell	Nelson
Baker	Hatfield	Packwood
Bayh	Hathaway	Pastore
Beall	Huddleston	Pearson
Bentsen	Hughes	Pell
Biden	Humphrey	Percy
Brooke	Inouye	Proxmire
Burdick	Jackson	Randolph
Case	Javits	Ribicoff
Chiles	Kennedy	Roth
Clark	Magnuson	Schweiker
Cook	Mansfield	Scott, Hugh
Cranston	Mathias	Stafford
Dole	McGee	Stevens
Domenici	McGovern	Stevenson
Eagleton	McIntyre	Tunney
Fong	Metcalf	Weicker
Gravel	Mondale	Williams
Griffin	Montoya	Young
Hart	Moss	

NAYS—33

Allen	Curtis	McClellan
Bartlett	Dominick	McClure
Bellmon	Eastland	Nunn
Bennett	Ervin	Scott, William L.
Bible	Fannin	Sparkman
Brock	Goldwater	Stennis
Buckley	Gurney	Taft
Byrd, Harry F., Jr.	Hansen	Talmadge
Byrd, Robert C.	Helms	Thurmond
Cannon	Hollings	Tower
Cotton	Hruska	
	Long	

NOT VOTING—5

Church	Johnston	Symington
Fulbright	Saxbe	

The PRESIDING OFFICER (Mr. TUNNEY). On this vote, there are 62 yeas and 33 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the motion is rejected.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER (Mr. CANNON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(For nominations this day received, see the end of Senate proceedings.)

LEGAL SERVICES CORPORATION ACT

The PRESIDING OFFICER (Mr. TUNNEY). Under the previous order, the Senate will now proceed to the consideration of S. 2686, with the pending question being to invoke cloture on the bill.

The bill will be stated by title.

The legislative clerk read as follows:

S. 2686, to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Time for debate is limited to 30 minutes, divided and controlled equally by the Senator from Minnesota (Mr. MONDALE) and the Senator from North Carolina (Mr.

HELMS) or their designees; with the vote to occur immediately upon conclusion of the 30 minutes, with no automatic live quorum call under the rule.

Mr. NELSON. Mr. President, the control of the time on the bill for the proponents should be under my control, and I ask unanimous consent that I be permitted to control the 15 minutes——

The PRESIDING OFFICER. Or the Senator's designee?

Mr. NELSON. Or my designee, yes.

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

Mr. NELSON. Mr. President, is it 30 minutes, with 15 minutes to a side?

The PRESIDING OFFICER. That is correct.

Mr. NELSON. I thank the Chair. I yield 5 minutes to the Senator from New Jersey (Mr. WILLIAMS).

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. KENNEDY. I should like to have 4 or 5 minutes.

Mr. WILLIAMS. Mr. President, in the next few minutes we will vote on the motion to close debate on S. 2686, the Legal Services Corporation Act.

As chairman of the Labor and Public Welfare Committee, I have borne witness to the long and difficult path which this bill and its predecessors have taken.

There has been congressional debate on the subject of legal services since the 91st Congress. S. 2686 is, in fact, a product of these debates.

In my judgment, we have had ample time to make up our minds. I urge that we end debate and come to a vote on this issue.

Mr. President, I should like to say at the outset that I have nothing but respect and admiration for the way the managers of the bill, the Senator from Wisconsin (Mr. NELSON), the Senator from Minnesota (Mr. MONDALE), and the Senator from New York (Mr. JAVITS), have handled this complex and sensitive subject. They have pursued the issue of legal services for the poor and disadvantaged with rare combination of passion, patience, and persistence. And that brings us to this critical debate.

Mr. President, it is my firm belief that the constitutional principles of due process and equal protection require that a quality standard of legal representation be provided to all of our citizens regardless of financial status.

Essential to such a system is that it not be subject to political partisanship or constrained by capricious statutory limitation.

I believe that S. 2686 creating an independent Legal Services Corporation satisfies these requisites.

Although previous legislative attempts have ended in deadlock, I am encouraged that this year's efforts will not be in vain.

Strenuous efforts were made by the committee to reconcile its philosophy on legal services with that of the administration's.

Indicative of the bill's bipartisan support was the fact that it was reported favorably out of committee, 16 to 0.

I personally have received hundreds of communications with regard to legal services from all parts of the country, and from literally all walks of life.

The consensus has been highly favorable urging the establishment of an independent legal services corporation.

Formal resolutions from dozens of State bar associations, and even many State legislatures, have been sent to me requesting the continuation of legal services for the poor and disadvantaged.

County and local officials have done likewise.

But perhaps it has been the simple handwritten letters from the many grateful persons, who have received, or are presently receiving legal assistance, which have moved me the most.

While volume, of course, is impressive, what has struck me most profoundly has been the singular need expressed for the program.

These letters vividly describe how the various legal services projects have provided not only help, but also hope, to so many throughout the country.

The intent of this bill is simple—to allow legal services attorneys to be attorneys in the fullest sense of the term.

Participating attorneys must be endowed with the same professional tools as their private sector counterpart.

To do otherwise would not only violate the canons of ethics of the legal profession, but would do grievous harm to the concept of equal justice for all under law.

The organized bar will vouch for the success of Legal Services; and in fact, almost without exception, has endorsed its continuation.

This is clearly because there is a universal recognition that the types of clients, and the nature of their cases, are not now being adequately served.

Without the Legal Services attorney, there is virtually no one to come forward and handle these cases.

Mr. President, the hour is near. Further debate can serve no useful purpose.

The issues are the same as they always have been; and so, unfortunately, are the needs of the poor and disadvantaged.

Once again, I urge my colleagues to vote for cloture, so that we may have the opportunity to vote on the merits of S. 2686.

It is up to us today, to decide whether or not we will have a meaningful Legal Services program. Further delay will not achieve this objective.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. Ten minutes.

Mr. NELSON. I yield 1 minute to the distinguished Senator from Minnesota (Mr. HUMPHREY).

EQUAL JUSTICE FOR THE POOR

Mr. HUMPHREY. Mr. President, I urge the Senate to take favorable action on S. 2686, the Legal Services Corporation Act. It is essential that the uncertainty which has clouded the future of Federal assistance for legal services on behalf of millions of lower-income Americans, during 3 years of disagreement between the administration and Congress, should now be ended.

I strongly supported the initiation of the legal services program under title II of the Economic Opportunity Act of 1964 as a vital component of the war on poverty. Far too often, living in poverty means not having access to information about the legal system. It means not being able to afford the cost of legal counsel to appeal for a resolution of public or private disputes. And it can frequently mean a delay of pustice, whose ultimate effect is that justice is denied.

It is profoundly wrong that any American, simply because of having a lower income, should somehow be deemed less equal before the law, condemned to a position of second-class citizenship where limitations are placed on the constitutional guarantee of equal protection of the laws, in the actual working of the legal system.

I was privileged to be part of an administration that moved decisively to redress this major grievance, in launching an unprecedented nationwide attack on the causes and conditions of poverty and, more particularly, in expanding the Legal Services program in only 2 years to a Federal allocation of $26 million in 1966 to support 157 projects with some 1,000 lawyers providing legal advice, representation, counseling, education, and other services to further the cause of justice among persons living in poverty.

Since returning to the Senate in 1971, I have consistently supported legislative effors to establish an independent Legal Services program to uphold the justice that is above politics. In the face of administration opposition to provisions establishing a Legal Services Corporation to carry out this program objective, under two consecutive measures authorizing the continuation of antipoverty programs, Congress finally mandated the specific funding of the Legal Services program, in the Economic Opportunity Amendments of 1972, at a level of $71.5 million in fiscal 1974.

I am hopeful that indications of administration support for the bill presently before the Senate will prove to be correct, for S. 2686 represents the product of a sustained bipartisan effort in the Senate to work out provisions, drawing upon administration proposals, to establish a private, nonprofit, federally funded legal services corporation to which the duties and the responsibilities of the current OEO program will be transferred. Statements of agreement by the White House to the principal features of this bill would represent a substantial change of administration policy which early this year called for the phaseout of the current program, despite the congressional mandate in the 1972 law, and which had to be evaluated in light of the abrupt dismissal of the program's acting director as well as the termination of a program sponsored by the American Bar Association to help protect legal services attorneys from being subjected to political pressures in handling their cases.

ACCOMPLISHMENTS OF LEGAL SERVICES PROGRAM

Mr. President, in case after case it has been shown that effective legal services, by restoring hope and affirming the dignity of the individual, provide one of the

most successful measures by which families who have been the victims of the debilitating forces of poverty can be helped to help themselves.

The cost-effectiveness and success of the Legal Services program are well established. Over 1 million clients have been served annually, at a cost of only about $50 per case. Legal Services attorneys have handled 83 percent of their cases without litigation, and, where appeal to the courts has been necessary, they have won 85 percent of their clients' cases. These figures dramatically refute spurious claims that the Legal Services program has contributed to the clogging of court calendars and has victimized its clients. And a General Accounting Office report effectively puts down the claim that Legal Services lawyers too often engage in improper activities which, moreover, are of little or no direct benefit to poor clients. The GAO survey earlier this year clearly indicated that the major portion of attorneys' time is spent on handling the immediate problems of families in poverty—domestic relations, consumer and job-related problems, and housing and welfare needs.

Where Legal Services attorneys have undertaken efforts to achieve reforms in the law or in its administration, they have been responding to repeated evidences, in the course of their daily case work, of urgent human needs that have gone unmet—providing a nutritious daily lunch for a child at school; correcting a sudden reduction in a monthly welfare check on which a family is dependent; protection of children in older housing from lead-based paint poisoning; helping a black or Spanish-surnamed applicant to have an equal chance in being employed as a policeman; prohibiting a stiff increase in rent charged a low-income mother in a public housing unit, or halting retaliatory acts by landlords against tenants who report violations of local housing codes; preventing an unfair garnishment of wages to pay off a loan or consumer credit agreement; and enabling an Indian tribe to meet legal qualifications in carrying out an agreement with the State on a program of assistance.

Mr. President, the Legal Services program today supports 256 local projects with more than 900 branch offices staffed by more than 2,200 full-time attorneys. Despite this impressive expansion in only a few years, the program is able to reach only a small percentage of families in poverty. For example, as recently reported by Legal Assistance of Minnesota, legal services are of critical importance in rural areas, but even the existence of present operational units has been threatened under proposed regulations of the Social and Rehabilitation Service which itself recognizes that legal services in such areas are extremely limited.

MAIN PROVISIONS OF BILL

I believe that enactment of the Legal Services Corporation Act can launch a vitally needed nationwide effort to expand services, while at the same time insuring that this program will be independent and free from political interference to enable a lawyer to serve his clients to the extent of his professional responsibility and the ethical mandates of the profession. The bill contains adequate safeguards to assure that the Corporation and its guarantees will be effectively monitored and measured by professional standards of the justice system, to the end that this program will be expanded and strengthened as an integral part of that system. And this legislation responds affirmatively to recommendations to assume administrative accountability, in legal services projects both to the public and its elected representatives.

The Legal Services Corporation Act would establish a private nonprofit corporation to provide financial support for legal assistance in noncriminal proceedings or matters, to persons financially unable to afford this assistance. The Corporation would be directed by an 11-member board appointed by the President, by and with the advice and consent of the Senate.

This method of choosing board members represents a substantial compromise with the administration by Senators who have been deeply concerned that legislation enacted by Congress assure the independence and professional integrity of the Corporation. And I am totally opposed to any amendment to this legislation whose effect would be to go beyond this compromise, which includes the stipulation that no more than six members of the board could be of the same political affiliation, and that a majority would have to be lawyers.

The Corporation would be authorized to make grants or enter into contracts with individuals, partnerships, firms, organizations, and corporations, as well as with State and local governments for the purpose of providing legal assistance to eligible clients. This flexibility is important to promoting measures for assistance of the highest quality.

To continue to assist lawyers overburdened with the demands of immediate casework, the Corporation has the authority to provide for research, clearinghouse, and other backup programs essential to the vitality of legal services, and to the improvement of service delivery, and in the promotion of indepth legal research.

LAWYER ACTIVITIES FOCUSED ON CLIENT NEEDS

Various restrictions and safeguards provided in this bill on the activities of Legal Services project attorneys will enable them to concentrate their efforts on providing legal assistance to the eligible poor—and provision is made for clear criteria on client eligibility. Legal Services attorneys are prevented from involving themselves in nonclient oriented activities while they are on the job—including picketing, boycotts, strikes, or public demonstrations. By application of the Hatch Act, they are prohibited from engaging in political activities. Only as necessary to the provision of legal advice and representation for eligible clients may these attorneys seek to influence legislation before Congress or before any State or local legislative body—as any lawyer can and should in carrying out his responsibility under the canons of ethics to provide a full range of services to his or her client. Any activity by an attorney must be directly related to affirming a client's legal rights and responsibilities.

I believe such provisions adequately guard against abuses under this program, which have actually been extremely limited, while at the same time giving attorneys the flexibility and freedom they require in advising and representing eligible clients to the best of their ability.

Finally, additional monitoring measures are provided in this bill through the authorization of State advisory councils to be appointed by a Governor after recommendations are made by a State bar association. I remain seriously concerned about the manner in which this provision may be implemented in respective States, as well as the provision for direct funding of State and local government-sponsored legal services projects where nongovernmental alternatives are determined to be inadequate. But such provisions again reflect responsible compromise between the administration and Senators committed to the continued development of a strong legal services program, and they should be interpreted in light of the overall positive and progressive objectives of this bill.

I find the establishment, under this bill, of a National Advisory Council to consult with the Corporation on its activities, regulations, and guidelines, to be of special importance. While it is provided that this Council shall be appointed by the Board of the Corporation, I am hopeful that the members of this Council—representative of the organized bar, legal education, legal services project attorneys, eligibile clients, and the general public—will exercise a vital oversight function in the public interest and on behalf of millions of poor Americans whom this program is intended to serve.

OPPOSITION TO HOUSE BILL

Mr. President, the Senate version of the Legal Services Corporation Act must be regarded as the only viable legislative instrument before Congress to establish this critically needed independent program. The House-passed bill is totally unacceptable and would result in a substantial regression in legal services on behalf of the poor. Crippling amendments added on the House floor last June to H.R. 7824 place severe restrictions on the off-time activities of Legal Services lawyers, eliminate the backup research centers altogether, and prohibit the furnishing of Legal Services in a number of situations, without regard to the eligibility of the client or the lawyer's professional advice or judgment. Further restrictions on legislative and administrative representation by Legal Services attorneys would, in practice, terminate this legitimate and necessary service on behalf of eligible clients. And it could well be expected that the requirement in the costs of court cases lost by Legal Services attorneys, would work as an economic lever to undermine the entire program.

Mr. President, I urge the Senate to take early and favorable action on the Legal Services Corporation Act, S. 2686, in the form in which it has been reported to the Senate by the Committee on Labor and Public Welfare. In a time when the credibility of governmental institutions is at issue, it is essential that Congress demonstrate an effective response to an urgent need of those whose experiences with such institutions and with our legal system have too often been unresponsive or entirely negative. They have a right to hope, to dignity, and to equal treatment in our democracy, and effective legal services can be a vitally important reason for them to believe that this right is a reality in America.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. Mr. President, will the Senator from North Carolina yield a few minutes to me?

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

Mr. GOLDWATER. Mr. President, I hope that further decisions on this bill will be put off until next year. There is no real urgency for the consideration of it this year. If cloture is successful, we are faced with 65 amendments, and unquestionably many more, and many of us would care to speak at length.

Mr. President, in debate on the floor a number of years ago on this matter, I pointed out the abuses that were being practiced in my State of Arizona; and I was assured by the managers of the bill at that time that these political abuses would not continue. They have continued.

In the Navajo nation alone, more money is being spent for the operation of this program than is being spent by the Attorney General's office in Arizona, by some three times.

Participants in this program have been very active on the Navajo reservation, which is 16 million acres, comprising more than 30 percent of all the Indians in this country, in an effort to register Indians as Democrats.

If it were bipartisan, I still would object, because I do not think it is the duty or the necessity of these young men, employed for legal purposes, to become active in a political party, regardless of which side it is.

These practices, I repeat, which were abusive to me at that time, are still being practiced. If I felt there were any way by which it could be stopped, I would not be so much in opposition to the bill, because I recognize that there are certain areas in which this bill would be of benefit and would be applicable. But the experiences we have had in my State—and I am only speaking for my State—have been such that I am forced to vote against cloture, and I will also vote against the bill, unless we can devise some way to write into this legislation that none of these moneys will be used for political purposes.

I repeat: The last time I participated in debate on this matter, I was assured that this would stop; but thorough investigation in the last election and continuing since that time indicates to me that at least in one area, the practice still continues.

Mr. NELSON. I yield myself 1 minute, to respond to the Seantor.

With respect to the objections that have been raised and mentioned by the distinguished Senator from Arizona, we have very carefully designed, as best we could, in cooperation with the administration, a bill which would prohibit Legal Services employees engaged in legal services activities from engaging in political activities, or in picketing or public demonstrations or encouraging such activities.

If the Senator would look at the bill, he would agree that we have covered the problem that concerns him. Section 1006 (d)(3) provides: "Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office."

We have taken each of these problems and have done our best to design the legislation so that the abuses which are complained about can not be repeated. As I have said, the administration supports enactment of this legislation by the Senate.

Mr. GOLDWATER. I say to the Senator that the same words were used in debate—I believe it was 4 years ago; it might have been 3. I was assured that the language of the bill would stop all this.

I can assure the manager of the bill that these practices still continue. I understand, although I do not have the references handy, that there are exceptions in all of these; and I think it is under these exceptions that they begin to operate outside the intent of the framers of the bill.

I am not accusing the committee of anything. I am just making a report that can be substantiated in full, by sworn testimony, that the practice of these people is still to engage in politics. I do not care for which side they engage in this practice It is wrong to use public money for political purposes.

Mr. NELSON. Mr. President, I yield myself 15 seconds.

It is correct that, when the legislation was on the floor in 1971 and 1972, I assured Members that language was in the bill to meet the problems complained about. Although the language was in the bill passed by the Congress, the President vetoed the bill in 1971. And such language was in the bill passed by the Senate in 1972, but we could not reach agreement with the House, so we are operating on the old legislation. That is why these abuses continue.

Mr. President, I yield 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I want to emphasize once again that the Legal Services Corporation Act, S. 2686, is well-known to the Members of this body.

It represents essentially the same concept and the same provisions that have been approved by this body not once, but twice before. In 1971, it formed part of the OEO bill which was debated for 2 days prior to a 49 to 12 vote on final passage. There was a third day of debate prior to the adoption of the conference report on this measure.

In 1972, it was debated for 5 days, the vast majority of that time spent on discussion of the legal services corporation provisions. Eleven amendments were adopted One amendment to delete the legal services section entirely was defeated after substantial debate. A motion to send the measure to committee for the deletion of legal services provision also was defeated by a substantial margin. Subsequently the entire bill was adopted by a 75 to 13 vote.

Opposition to the measure centered on the authority to name the board of directors of the corporation.

The continuing opposition of the administration to restrictions on that power of appointment was a major factor in the veto of the original bill and in the inability of the conference committee to reach agreement on a provision that would not be vetoed.

Those objections no longer exist. We have succeeded, and much credit should go to Senators NELSON, JAVITS, MONDALE, CRANSTON, and TAFT in that effort, in reaching agreement with the administration on the bill now before us.

We have given to the President the power to appoint the board directors, with the advice and consent of the Senate. I would prefer the original language; but, as the price of administration support, I felt it was an acceptable compromise.

I would call to the attention of my colleagues the obvious attempt of the opponents to delay this measure, to deny the Senate the powers to work its will. They originally placed a hold on the bill threatening a filibuster. The 100 amendments which have been offered are dilatory in nature almost to a one. They do not seek to improve the bill. They seek only to prevent its consideration on the merits. Nor have they designed to call up a single one of those amendments since the bill was first laid down as the pending business.

We must no longer permit this delay to continue.

The letter from Mr. Laird printed in the RECORD on Monday states explicitly:

> Therefore, we urge that final action be taken on the bill in this general form by the full committee and by the Senate followed by an expeditious reconciliation of issues with the House passed bill so that the best possible measure may result and a National Legal Services Corporation may be implemented at the earliest opportunity.

This bill reflects the overwhelming belief of the organized bar, of the administration and of this committee, which has followed the development of the legal services program since its inception, that providing access to the legal system on an equal footing to the poor is vital to the future of the Nation.

This bill reflects a mutual concern of members on both sides of the aisle that legal services attorneys have the capacity and the independence from political pressure to provide to the poor, competent legal counsel.

I believe this view, which is stated by President Nixon in his message to Con-

gress and is incorporated in the measure before us deserves the support of the Senate.

Let me read to the members the statement of findings and declaration of purpose of this legislation; which clearly enunciates the objectives which this measure seeks to insure:

First, there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;

Second, there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital legal services program;

Third, providing legal assistance to those who face an economic barrier to adequate legal counsel will serve justice far better and more rationally than leaving them with recourse only to less peaceful means;

Fourth, for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws;

Fifth, to preserve the strength of the legal services program it must be insulated from political pressures; and

Sixth, lawyers providing such services must have full freedom to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.

Business executives and corporations deduct from their income taxes the cost of legal expenses, including legislative representation, related to the conduct of their business. That deduction represents a subsidy by taxpayers to a wide variety of individuals, corporations and organizations.

In this measure we are seeking to provide some equivalent access to the judicial system to the poor that we have traditionally given to the economically powerful. It is the poor who are most vulnerable to economic pressures, to illegal acts, to the neglect of institutions, and it is the poor who are least able to seek a remedy through the laws which are supposed to protect all of our citizens equally.

The Supreme Court in Gideon versus Wainwright stated:

> From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him.

Equal treatment in criminal matters is a matter of right, and I believe that equal access to the legal system in civil cases is a matter of justice.

Mr. President, there is an extraordinary irony in listening to this debate at this time. We have set up a tax system in this country which permits large companies and corporations to spend hundreds of millions of dollars to conduct their legal affairs and to engage in lobbying and then to deduct the expenses from their taxes. Lawyers for those companies and corporations can come to Congress and involve themselves in political activities by lobbying on particular issues. Those expenses for legislative representation can be deducted as business expenses.

In this legislation we are trying to provide a few million dollars to look after the interests of the poor. This measure is supported by the American Bar Association and those concerned with providing equal justice to all Americans. It is supported by the results of the activities of these legal services attorneys. Statistics show that they won 85 percent of the cases actually litigated so the cause of justice must have been on the side of those people they were defending.

This is a sound legislative proposal. Congress and the Senate voted on two different occasions to support it.

Mr. President, I hope the Senate will support us in the vote to invoke cloture.

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

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

Mr. GOLDWATER. Mr. President, the Senator from Massachusetts, when he tries to compare corporate or company lawyers——

Mr. KENNEDY. Mr. President, whose time is being used?

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

Mr. GOLDWATER. Our time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. GOLDWATER. Mr. President, when the Senator from Massachusetts tries to compare corporate or company lawyers with lawyers hired by the OEO, or whatever we call the organization, there is no comparison at all. The individual member of the bar who represents a company or a corporation represents both Democrat and Republican. I think of many, many prominent lawyers in this town who are strong Democrats. I respect them for that. Many are strong Republicans. But we are talking about a group of people hired, in this case, to work for the Indians, and in this case they are actively engaged in political registration on the reservation, not in a bipartisan manner, but in a one-party manner. That is what I object to.

I do not object to giving legal aid to those who need it, but I do object to an agency spending three times as much money involving 325,000 people as my State spends on 3 million people.

I object to the fact that they are engaged in political work. Representing an Indian who has a valid complaint against an Indian trader, or anybody else, is one thing, but when that individual ceases to be a lawyer with a client but represents a political party, that is wrong.

Mr. KENNEDY. Mr. President, the Senator from Arizona is not talking about the bill before us because section 1007(a)(c) prohibits voter registration activities. So that argument is not relevant to this legislation.

Also, I draw attention to title XXVI of the United States Code which permits deductions for companies and corporations for highly paid lawyers and lobbyists to do their legislative work and then deduct the expenses as business expenses from their tax returns.

Mr. GOLDWATER. I might point out that a man engaged in lobbying on this Hill is not comparable to a man out registering voters, whether he be Republican or Democrat.

In reference to section 1007, I recall in debate with the Senator from Massachusetts (Mr. KENNEDY) and others 3 or 4 years ago I was assured that this would not happen again, but it has never stopped. It is one thing for a man to represent x corporation from Massachusetts or Arizona and ask us to vote for something, and that company be allowed to deduct the expense; that same company cannot give, under law, money to a political campaign. That argument I do not follow at all.

Mr. HELMS. Mr. President, the Senate is being asked to shut off debate on the very controversial legislation establishing a Legal Services Corporation. The proponents of the bill have repeatedly said that all the arguments about this program have been thoroughly aired, and that we have now exhausted everything that can be said about it. The Senate has been told that the time has come to shut off debate.

Mr. President, I submit that this is a very peculiar point of view. The proponents are so certain that everything has been said on the topic that they did not even hold hearings on the matter this year. Yet, they have written an entirely new bill, a bill that will have a great impact on the judicial system of this country. This bill has never received a review from the Senate committee best qualified to study its impact upon the judicial system, the Senate Committee on the Judiciary.

In my judgment, a simple debate on the floor of the Senate is not enough to study the implications of such legislation. The proponents have said that they were willing to stay here until the late hours of the night to debate the merits of their bill.

But, Mr. President, oratory is not enough. I doubt whether we would make much progress in arriving at a common understanding if two or three Senators on each side were to engage in rhetorical exercises until late night or early morning. Many Senators who are opposed to the bill see grave deficiencies in the language and in the impact of that language. Quite a number of Senators have introduced substantive amendments to the bill.

It is my understanding that these Senators would like to bring these amendments before the consideration of this body. The unusually large number of amendments is a token, in itself, of the grave misgivings which many Senators have about this bill. If the bill had been properly considered by the Judiciary Committee, perhaps many of these misgivings would have been removed. But it was not considered by the relevant committee. This is why, or so I have been told by many of those who have doubts about the bill, so many amendments have been filed. The bill is in no condition to be ready for debate on the floor of the Senate.

Mr. President, the opponents of the bill have listened patiently while the proponents explained their views. But no sooner had they finished their opening presentation than they presented a peti-

tion for cloture, the petition which will be acted upon shortly. They declared that there existed a so-called filibuster by amendment. But this is manifestly absurd. The amendments were offered because the bill, as reported, is in such bad condition. No amendments have as yet come under general discussion. How can it be said that a filibuster exists?

The Senator from North Carolina has not called up any of his amendments because the record will show that each time debate has begun on the bill this week, it has begun at a very late hour in the afternoon. While the Senator from North Carolina is perfectly willing to stay here until a late hour in the evening and debate this bill, debate alone would not suffice. He would like to give every Senator an opportunity of expressing support or disapproval on the record in terms of rollcall votes. There is no reason why this legislation must be passed now with late night rollcall votes. It has no great priority. Legal services will continue.

That is why the Senator from North Carolina hopes that this legislation will be deferred until the next session, when there is time for reform of the program at OEO, when there is time for hearings by the Judiciary Committee, and when there is time for a leisurely debate during the normal hours of the Senate, so that Senators can attend and express their position through rollcall votes.

But if the proponents of this legislation object to full and deliberate consideration of the matter, then the only recourse of the Senator from North Carolina, and of the many other Senators who see deficiencies in the present bill, is to urge full consideration at this time, despite the press of other business. Even if cloture is brought, I feel certain that the opponents of the bill will bring up as many amendments as possible in the allotted time of each Senator in an effort to do the work which should be entrusted to the Judiciary Committee. If the Senate cannot divide its priorities between urgent legislation and less urgent legislation, then we will have to do the best we can, despite whatever problems might be created for Senators who are trying to get away for the recess. But let the record show that it is not the Senator from North Carolina and it is not the Senators who have submitted substantive amendments who are keeping the Senate here. The Senate will be kept here by those who object to deliberate consideration of a complex and controversial bill.

Mr. BROCK. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HELMS. I yield.

Mr. BROCK. Mr. President, I ask unanimous consent that a member of my staff, Mr. Lyle Ryter, be allowed the privileges of the floor during the remainder of the debate on this bill.

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

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

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

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. NELSON. Mr. President, I yield 2 minutes to the Senator from Minnesota (Mr. MONDALE) and then 2 minutes to the Senator from New York (Mr. JAVITS).

Mr. MONDALE. Mr. President, rarely has the Senate had a measure before it that was more ripe for action than this. It is the product not of several days but of several years of action by the committee, by the Senate, by the House, by the White House, and it has the encouragement of those who speak on behalf of the President. It enjoys the support of the American Bar Association and by most practitioners of the law. There is a letter from Mr. Melvin Laird, calling for its adoption. The only question now is whether we believe that the poor ought to have a right to assert their legal and constitutional rights before the courts and tribunals of this land, or whether we do not.

This is not a new fight; this is an old fight. It strikes me that it is especially ironic that this elementary principle of justice in American law, this elementary principle of a government of laws, is being undermined by trying to deny the right of the poor to be heard by the courts. In essence, we are witnessing an attempt to nail the courtroom door shut, and to have, in this country, one system for those who are rich enough to afford lawyers, one system for those who are in a tax situation in which the cost of legal counsel is immaterial, and another system for the poor, where they have no right to go into court, no real right to go before tribunals—administrative or legislative—because they do not have the legal counsel that they need with which to do it.

If there has ever been a matter of simple justice, if there has ever been a measure that enjoys bipartisan support—this measure was unanimously adopted by both Republicans and Democrats on the Labor Committee—it is this.

Mr. JAVITS. The two arguments which I screen out of the arguments by our distinguished colleague from North Carolina, are, first, that the measure should be referred to the Judiciary Committee, and, second, that it will have an adverse impact on the judicial system of this country. His third argument is that Senators should have an opportunity to offer and argue their amendments, and that those who have offered the some 95 amendments should have that opportunity. Let me point out that if it comes to cloture, those amendments will be subjected to the test of germaneness, but they may all be voted on. No Senator can be shut off even if the time has expired.

This corporation measure to establish a legal service has been considered twice before. The Judiciary Committee, as indicated by yesterday's vote, acknowledges the interest of the Committee on Labor and Public Welfare—really because this is a successful and elemental part of the social program and, in terms of the sense of dignity and the benefit of the poor. It has not been sought by the committee whose ox is being gored, cloture or not, the Senator from North Carolina can move to refer it and get a yea and nay vote on referring to the Judiciary Committee right here on the floor, if Senators are given a chance to dispose of the matter. That is why Senators should vote for cloture.

As to the argument of its impact on the legal system, who is a better judge of that than the American Bar Association? And the American Bar Association's president, Mr. Chesterfield Smith, writes the following, and if I use my time reading that, I think that is fine. This is the best evidence. He says:

> The American Bar Association has long been interested in the creation of an independent national legal services corporation and has on three occasions adopted policy positions in support of this concept. I am pleased to inform you that S. 2686, as reported, fully complies with the Association's insistence on assuring the independence of lawyers for the poor to provide professional legal services to clients. I urge that the legislation be speedily and favorably acted upon by the Senate and that any amendments seeking to restrict the independence of lawyers or the access of their clients to our processes of justice be resisted.

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

Mr. JAVITS. In any case, he supports this bill. Therefore, it ought to be passed.

The PRESIDING OFFICER. The Senator from North Carolina has 2 minutes remaining.

Mr. HELMS. Mr. President, I yield to my colleague from Tennessee.

Mr. BROCK. Mr. President, may I take a couple of minutes to set the record straight. There are those of us who oppose this bill and will continue to do so, as best we can, throughout this session; but I want to point out to the Senator from Minnesota that it is not in a desire to deny access to the judiciary or the due process of law to the disadvantaged people of this country. The bill the Senator from North Carolina and I are cosponsoring would enhance their access to legal services and would enhance their opportunity for true services at the community and State level, where people care about them, and not about making their name before the Supreme Court relating to some charge in the street.

I think it is important that we maintain the clarity of this record—that we have every intention of providing for those who cannot provide for themselves access to due process of law and equity under the law.

Therefore, I would urge that we support the motion of the Senator from North Carolina in the effort to extend this debate until that picture is presented to the entire Senate and to the American people.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Neal Levy be granted the privileges of the floor during the debate on this measure.

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

Mr. HELMS. Mr. President, I ask unanimous consent that a "Dear Colleague" letter circulated on yesterday by the Senator from New York (Mr. BUCKLEY) be included in the RECORD and printed at the conclusion of my remarks.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 13, 1973.

DEAR COLLEAGUE: A cloture motion has been introduced for action today, Thursday, December 13, on S. 2689, the Labor and Public Welfare Committee proposal for a legal services corporation.

Despite the fact that there have been no hearings on the bill, and that it includes provisions not previously reviewed, despite the fact that the Judiciary Committee has not reviewed it for legal implications, and despite the fact that the bill's critics have not yet had the opportuntiy to present their views on the Floor, its advocates now seek to end debate.

Were this an inconsequential measure, such a course might be explainable, or perhaps even justified—but the bill to give permanent authorization and virtually open-ended funding to private advocacy groups, unaccountable to elected authority, deserves far more attention.

Thoughtful critics have concluded that it is not a poor people's bill. They say it is a lawyer's bill, a busing bill, a welfare bill, an abortion bill, a bill which, if enacted in present form, would reflect a major abdication of Congressional responsibility to private special interests.

It is a bill sorely in need of improvement. In fact, more than seventy substantive amendments have been proposed to deal with significant issues raised by the bill. Surely it ought to be subjected to the hearing process, and to the purview of the Judiciary Committee, before we are asked to vote on so far-reaching a measure.

There is no reason why the bill must move to final passage now. It deserves consideration and debate.

Please join me in opposing cloture so that the other side may be heard.

Thank you.

Sincerely,

JAMES L. BUCKLEY.

Mr. CRANSTON. Mr. President, I note that the Senator from North Carolina (Mr. HELMS) attempted to make the point that the large number of amendments pending on S. 2686—some 97 filed amendments—indicated the great difficulty Senators had with the pending measure.

I should like to point out to the Senate that all these amendments were filed by seven Members—a very limited representation of "difficulty."

Additionally, many of these amendments are duplicative. For example, the Senator from North Carolina (Mr. HELMS) has authored amendment No. 812, which has several sections. The Senator from Idaho (Mr. MCCLURE) has filed amendments Nos. 847, 845, and 843—all of which are contained in Mr. HELMS' amendment No. 812.

Another example: Mr. HELMS' amendment No. 797 is exactly the same as amendment No. 802; which he himself offered.

Now, Mr. President, I could go on and on with this sort of analysis, but I think I have responded to the very weak point the Senator from North Carolina was attempting to make.

What we have here is, plain and simple, a filibuster—simply that—and I would urge my colleagues to join me in support of the cloture motion before us today. We have already been delayed too long on action on S. 2686.

CLOTURE MOTION

The PRESIDING OFFICER. All time for debate on the motion has now expired. The clerk will read the cloture motion.

The legislative clerk read the motion, as follows:

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2686), a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Mike Mansfield	Daniel K. Inouye
Gale W. McGee	Gaylord Nelson
John O. Pastore	Walter F. Mondale
Hubert H. Humphrey	Edward M. Kennedy
Alan Cranston	Jacob K. Javits
Edmund S. Muskie	William D. Hathaway
George McGovern	Joe Biden
Philip A. Hart	Harold E. Hughes
Robert Taft, Jr.	Dick Clark
Floyd K. Haskell	

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on S. 2686, a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal Economic Opportunity to a Legal Services Corporation, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON) is necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

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

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is detained on official business.

The yeas and nays resulted—yeas 60, nays 36, as follows:

[No. 578 Leg.]

YEAS—60

Abourezk	Haskell	Moss
Aiken	Hatfield	Muskie
Bayh	Hathaway	Nelson
Beall	Hollings	Packwood
Bentsen	Huddleston	Pastore
Biden	Hughes	Pell
Brooke	Humphrey	Percy
Burdick	Inouye	Proxmire
Case	Jackson	Randolph
Chiles	Javits	Ribicoff
Clark	Kennedy	Roth
Cook	Magnuson	Schweiker
Cranston	Mansfield	Scott, Hugh
Domenici	Mathias	Stafford
Eagleton	McGee	Stevens
Fong	McGovern	Stevenson
Gravel	McIntyre	Taft
Griffin	Metcalf	Tunney
Hart	Mondale	Weicker
Hartke	Montoya	Williams

NAYS—36

Allen	Curtis	McClellan
Baker	Dole	McClure
Bartlett	Dominick	Nunn
Bellmon	Eastland	Pearson
Bennett	Ervin	Scott, William L.
Bible	Fannin	Sparkman
Brock	Fulbright	Stennis
Buckley	Goldwater	Talmadge
Byrd, Harry F., Jr.	Gurney	Thurmond
Byrd, Robert C.	Hansen	Tower
Cannon	Helms	Young
Cotton	Hruska	
	Long	

NOT VOTING—4

Church	Saxbe	Symington
Johnston		

The PRESIDING OFFICER. On this vote there are 60 yeas and 36 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the cloture motion is not agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon and that Mr. MAHON, Mr. WHITTEN, Mr. ROONEY of New York, Mr. EVINS of Tennessee, Mr. BOLAND, Mr. FLOOD, Mr. STEED, Mr. SLACK, Mrs. HANSEN of Washington, Mr. MCFALL, Mr. CEDERBERG, Mr. MICHEL, Mr. CONTE, Mr. DAVIS of Wisconsin, Mr. ROBISON of New York, and Mr. MCDADE were appointed managers on the part of the House at the conference.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1974

The PRESIDING OFFICER (Mr. TUNNEY). Under the previous order, the Senate will now proceed to the consideration of H.R. 11575, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 11575) making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

EXECUTIVE SESSION

The PRESIDING OFFICER. The Senate will be in order. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I yield to the distinguished acting Republican leader.

Mr. GRIFFIN. Mr. President, I thank the distinguished majority leader. With

his approval, and the approval of the chairman and ranking Republican member of the Committee on the Judiciary, I ask unanimous consent that the Senate go into executive session very briefly for the purpose of considering a number of nominations reported earlier in the day by the Committee on the Judiciary.

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

THE JUDICIARY

The legislative clerk read the nomination of Russell James Harvey, of Michigan, to be a U.S. district judge for the eastern district of Michigan.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Albert J. Engel, of Michigan, to be a U.S. circuit judge for the sixth circuit.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Richard Owen, of New York, to be a U.S. district judge for the southern district of New York.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of William C. Conner, of New York, to be a U.S. district judge for the southern district of New York.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of John O. Olson, of Wisconsin, to be U.S. Attorney for the western District of Wisconsin.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Evan LeRoy Hultman, of Iowa, to be U.S. attorney for the northern district of Iowa.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Era DeMent, of Alabama, to be U.S. attorney for the middle District of Alabama.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Julio A. Brady, of the Virgin Islands, to be U.S. attorney for the Virgin Islands.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of William A. Quick, Jr., of Virginia, to be U.S. marshal for the western District of Virginia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr GRIFFIN. Mr. President, I ask unanimous consent that the President be immediately notified as to the action of the Senate in confirming each of these nominations.

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

LEGISLATIVE SESSION

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

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

QUORUM CALL

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

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

AUTHORITY FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORT ON H.R. 620

Mr. JACKSON. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be granted permission to file the report on H.R. 620, to establish within the Department of the Interior and additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes, not later than midnight tonight.

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

QUORUM CALL

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

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

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1974

The Senate continued with the consideration of the bill (H.R. 11575) making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

Mr. McCLELLAN. Mr. President, today we consider H.R. 11575, the Department of Defense appropriation bill for fiscal year 1974. For the first time in 10 years there are no American GI's peering over gun sights at the enemy, no American warships firing at enemy ships or targets, no American planes bombing hostile concentrations, and no American troops dying on foreign soil. We are at peace, and for this blessing we can be fervently thankful. May the lessons we have learned from recent involvements in war be long remembered.

GENERAL RECOMMENDATIONS

The recommendations of your committee contain a total of $73,235,667,000 for the Department of Defense for fiscal year 1974. This amount will provide: $18,953,401,000 for the Department of the Army; $24,668,681,000 for the Department of the Navy; $22,869,153,000 for the Department of the Air Force; and, $6,744,442,000 for the Defense Agencies.

Funding recommendations include: $22,363,096,000 for the military personnel appropriations; $4,681,900,000 for retired personnel; $22,240,426,000 for the operation and maintenance accounts; $15,869,302,000 for procurement; and, $8,078,353,000 for research, development, test and evaluation.

These appropriations do not include funds for military construction, family housing, foreign assistance and civil defense, which are included in other appropriation bills.

APPROPRIATIONS CEILING

Early last February, I proposed that the Senate Appropriations Committee, through its subcommittee chairmen, undertake to set tentative appropriations ceilings to be observed in their consideration of the various fiscal year 1974 appropriations bills. On April 17, I reported to this body the minimum amount which each subcommittee chairman felt would be required to carry out economically the essential programs for the fiscal year 1974.

At that time, acting as chairman of the Defense Appropriations Subcommittee, I set as a goal a reduction of $3 billion from the President's 1974 budget for the Department of Defense appropriations. This would have the effect of reducing Defense expenditures in 1974 by slightly over half that amount.

I am happy to announce that the bill, as reported, by the Senate Appropriations Committee, will accomplish that objective, that it is within the limitations we set for this appropriation bill earlier this year.

REDUCTIONS RECOMMENDED

Although it is the largest appropriation bill that we shall be called upon to consider in this session of the Congress, nevertheless, the funds recommended are—$2,148,896,000 below those provided for fiscal year 1973; $4,015,046,000 below the budget estimates for fiscal year 1974; and, $865,632,000 under the amount provided by the House of Representatives.

It is the opinion of the committee that the amounts provided are about the maximum sum that the economy of the country can afford to spend and the minimum amount that will reasonably assure an adequate defense posture for our country.

COMMITTEE DELIBERATIONS

Before submitting its recommendations on this measure, the subcommittee spent long hours of painstaking study and deliberation. The five volumes of hearings and related material that you have before you bear mute evidence of the extent of our exhaustive endeavors. In all, they comprise 5,291 pages of testimony by 262 witnesses in 53 separate sessions. I believe it to be one of the most comprehensive examinations and studies of its kind in the history of the committee.

Nor was the committee content to secure the expert opinion of witnesses

from the Department of Defense and from those outside the Government who wished to testify. The members of this body were on two separate occasions asked to give their views on the proposed budget and to submit their recommendations to the subcommittee. Twenty-three of the Members of the Senate responded, either in personal appearances before the subcommittee or by submitting statements setting forth their views. This may be the first time that such an effort has been made to secure an expression of opinion on the defense budget from every interested Member of the Senate.

I wish to thank those Members who participated and helped us shape the recommendations you have before you. Without their help, this bill would not otherwise reflect the full balance of measured thinking and judgment that I believe it now represents.

DELAY IN SENATE CONSIDERATION

I deeply regret that the Senate is being asked to consider this important measure at such a late date. As one of the largest appropriations bills ever to be considered by this body, it deserves the most careful deliberations. Inasmuch as we are already 5 months into the fiscal year for which the funds are recommended, it undoubtedly places the Department of Defense in an awkward position, not only in the implementation of new programs requested for fiscal year 1974 but also in developing its budget for fiscal year 1975, which is already in process.

For a number of years, the Congress has been faced with the problem of how to expedite appropriations so as to make the funds available to the various departments and agencies during a period reasonably close to the start of the fiscal year. Thus far, we have not found a ready solution. This deliquency is not the fault of any individual, nor, for that matter, of any single committee. In recent years, the authorization process for the defense appropriations has often proved controversial and, thus time-consuming. Since decisions on authorization measures must precede appropriations, there has been an inevitable delay in the latter. This year, the authorization legislation for defense spending was not signed into law until November 16.

The appropriations procedure has also been time-consuming in recent years. This has been brought about, in part at least, by the very magnitude of the bill and its effect on the economy of the country. I believe that I can state without fear of contradiction that each year the bill receives more and more careful scrutiny, both in the House and in the Senate. Your committee completed its regular hearings with defense officials on July 18. Subsequent to that, we had testimony from Members of the Senate, as well as a session on budget amendments on October 4. The bill was received from the House on December 1. We heard testimony from the Department of Defense on the effect of House action as soon as they were ready to testify, on December 3. The Senate Appropriations Committee and its Subcommittee have acted as expeditiously as was possible—in fact, we could not have proceeded more quickly and still take into consideration the many changes made by the House.

As a result, with the contemplated adjournment of the Congress close at hand, the committee has found itself in a position of having to make many very important decisions in too brief a period of time. I find it hard to defend the present system when the committee is placed in such a position, and hope that some method can be evolved by which a more orderly schedule can be established.

FUNDAMENTAL GUIDELINES

At this point, I would like to describe in some detail two basic principles recognized by the committee in its consideration of the bill.

I. NEED FOR AN ADEQUATE DEFENSE

The first of these is the necessity for an adequate defense posture—one that will honor our treaty commitments, serve as a deterrent and discourage acts of aggression. Since I have been in the Senate, the United States has engaged in three major conflicts. At the outset of each of these struggles, we were either woefully unprepared, as in World War II, or only marginally prepared, as in the Korean war and the beginning of the war in Southeast Asia. It would be idle to speculate over imponderables as to the degree to which our military lack of preparedness encourages these aggressions. Because of the advent of nuclear fission, America can expect no grace period of months of years in which to ready our defenses—a luxury it once enjoyed in the past. In time of crisis, we are now compelled to utilize whatever resources we have at hand.

The hoped-for conclusion of the cold war, the gradual lessening of world tensions, the seemingly satisfactory results of the initial strategic arms limitation agreements, and the remarkable economic recovery and apparent political stability of Western Europe are all, we trust, harbingers of a global era of peace and tranquility.

For this goal we shall all strive mightily, but we are well aware of the fate of nations who are forced to negotiate through weakness. And those nations who in years past have amply demonstrated their desire for world dominance have more recently increased, rather than relaxed, their military potential. Under these conditions, it behooves this country to maintain a military strength commensurate with any anticipated threat, not merely as a bargaining agent, but also as an instrument of survival.

II. NEED FOR ECONOMY

The second principle that guided the committee's deliberations was the all too obvious need for economic stability involving a judicious distribution of the country's resources among the numerous priority items that help to compose our Federal obligations. I need not enumerate at length these familiar needs: a brake on inflation, a strengthening of our dollar abroad, and a long list of social, economic, and environmental needs—many of them urgent—requiring large-scale expenditures over the foreseeable future.

COMMITTEE ACTION

I believe a degree of alleviation to this dilemma is provided in the bill before you inasmuch as it recommends substantial but not debilitating reductions in the national defense budget.

The appropriations in this bill are not out of line with defense appropriations of the decade that preceded the Vietnam buildup. In terms of constant dollars, it probably provides a military preparedness slightly less than that appropriated in fiscal year 1964, our last previous peacetime year.

In so doing, the committee recommends $22,363,096,000 for a total of about 3,167,000 active duty and reserve military personnel. This is a substantial reduction from the fiscal year 1973 total of 3,226,000 and an even greater reduction from the wartime 1968 peak of 4,550,000. That is a reduction of almost 1.5 million. These funds for military personnel, plus the $22,240,426,000 recommended for operation and maintenance, in our judgment, will provide for an Army of 13 divisions, a Marine Corps of 3 divisions, a Navy of 523 commissioned ships and 6,603 aircraft, and an Air Force of 10,573 aircraft and 1,054 intercontinental ballistic missile launchers.

The committee also recommends a total of $15,869,302,000 for the procurement of hardware—the guns, tanks, ships, aircraft, and missiles needed to modernize our forces.

I shall describe briefly committee action on some of the major items that may be of interest to our colleagues.

For the Army: $159.3 million has been provided for the Safeguard antiballistic missile system; and, $143 million is recommended for the purchase of 480 M-60A1 tanks.

For the Navy: $1.8 billion to buy 232 combat aircraft of various types; $255 million for Poseidon missiles; and, $278 million for other Navy and Marine Corps missiles; $79 million for the DLGN guided missile frigate, which will provide long leadtime items for the purchase of two ships; $29 million for the first vessel in the sea control ship program; $587 million for the Trident submarine program, which will procure the first ship, and an additional $41 million for long leadtime items for follow-on submarines; $116 million for the Polaris-to-Poseidon submarine conversion program; $657 million for a nuclear attack aircraft carrier, the third ship of the *Nimitz* class; and, $913 million for the nuclear attack submarine program, which will fund the construction of five such submarines and procure the long leadtime items necessary for future ships, and finally, $586 million for seven DD-963 class destroyers as well as long leadtime items for future ships.

For the Air Force, the committee has recommended: $1 billion for 180 combat aircraft of various types; $358 million for the procurement of 241 other aircraft; and, $1.4 billion for missile procurement.

A total of $8,078,353,000 is provided for the research, development, test and evaluation which must be pursued if our military machine is not to fall technologically behind the progress being

made by other nations. Included are funds for the B-1 manned bomber, the Trident submarine and missile program, the advanced attack helicopter and the site defense program.

The funds provided under title V are the investment that we must make to assure the preservation of our technological superiority over any other nation. Hopefully, these sums will provide us with those weapon systems necessary to adequately meet any international crisis.

AN ECONOMICAL DEFENSE POLICY NEEDED

Some military authorities may look upon this as a lean budget. Nevertheless, I am confident that their objectives can be met if they apply the same diligent scrutiny to their programs as the members of the committee applied in making our recommendations.

In a budget the size of this one, there are bound to be some waste, extravagance, duplication, and overlapping. There is also the very human desire of those charged with the responsibilities in a given field to provide the very best that is available in equipment and weaponry in order to do the job. Within limits, this objective is most laudable. Carried to the extreme, it can be too costly. The Department of Defense must tailor its procurement and operational costs to the financial resources that can properly be made available.

Many of these economies can be best accomplished on a job level, wherein application of cost-conscious methods can produce substantial savings. I hope this will be encouraged and practiced by the military to the greatest extent possible.

But more strenuous efforts should be made at higher levels of administration and policymaking. The Department of Defense should insist upon a "fly-before-you-buy" policy, not only in aircraft procurement, but in every field of technical endeavor. Frequent costly change orders inevitably precipitate expensive overruns that can be eliminated. The Department of Defense should learn to curb its appetite for the latest gadgetry, the most recent improvement, the more desirable but not absolutely necessary equipment. It needs, where feasible, to develop weapons with multipurpose functions so as to avoid expensive proliferation of types. It must limit research to essential areas, to think of such research as a tool for necessary defense rather than a subsidy with which marginal advancement or benefits may be derived. And it must husband its personnel, both military and civilian, and concentrate more on essential tasks.

Today, 56 cents out of every defense dollar goes to pay any related costs of personnel. Every combat soldier in the field requires several men in uniform to back him up. This may be necessary in an age of advanced weaponry involving a high degree of maintenance, supply and mobility, but it also should require every administrator and field commander to utilize the personnel at his disposal more carefully on only essential tasks.

During the course of our hearings, I repeatedly advised the departmental officials who appeared before our subcommittee that substantial budgetary reductions would be proposed and admonished them to reexamine their requests for possible reductions. Thus, they are aware of the concern with which the committee considered our deteriorating fiscal resources. They should be well prepared by this time for the recommendations contained in this bill.

THE DANGER OF SWEEPING REDUCTIONS

I know that there are many well informed and patriotic Americans, including Members of this body, who believe that the funds recommended can be further reduced. A number of Senators who testified before the committee indicated either generally or specifically where reductions should be made. The committee has considered each of these with utmost care. I shall likely speak to some of these areas during our deliberations. In some instances, the committee felt that requested reductions were feasible; in others, the committee believed that substantial reductions would either weaken to an undesirable degree our future defense posture, or, by lengthening the production time, escalate the cost uneconomically.

Those advocating sweeping reductions base their argument on the belief that Russia is not bent upon aggression and that, therefore, we should channel our resources into other areas of national concern. Such an appeal is almost certain to be more welcome to our people than one that urges them to make sacrifices for the national defense. The easy way is far more persuasive when the need for sacrifice and denial cannot be proved with finality.

On the other hand, however, we cannot prove that partial disarmament, even total disarmament for that matter, would encourage the forces of aggression to reduce their reliance on overwhelming force. We can only point to what has happened when our own Nation and other nations have chosen the easy course. Unfortunately, such a choice is never pinpointed on a particular issue or a single vote.

It is easy to prove that war—even the preparation for war, even an adequate defense—are wasteful. Except for the jobs that are created through the production of weapons and the maintenance of forces, the sole benefit derived from defense expenditures is the preservation of peace. Defense costs, in effect, are a very expensive insurance policy which we hope will deter aggression and prevent war.

Sweeping reductions in appropriation requests or across-the-board cuts in expenditures would at this time not only jeopardize our bargaining position in arms reduction negotiations, but would also risk the exploitation of that weakness around the world. I do not believe that we desire this. Our concern for national security and survival dictate otherwise.

FAITH IN AMERICAN PEOPLE

The history of this Nation is replete with evidence that the American people are willing to make whatever sacrifices necessary to preserve their freedom and the independence and sovereignty of our Nation. And I have complete confidence that the American people of today have the same fortitude, strength of character, and the willingness, however unpleasant it may be, to make such sacrifices once they are armed with facts that make such sacrifices necessary or imperative.

We live in a period of international uncertainty—in an age in which no nation of which I am aware has been willing to give up more than it expects to receive, except the United States. It is a time when a reduction in arms can be achieved only by bargaining from strength. We cannot go to the bargaining tables with little to give but our good will. We must demonstrate military preparedness and a will to use it, if necessary, in order to have persuasive influence.

THE HIGH COST OF DEFENSE

Many people assumed with some logic that, once the war in Southeast Asia was concluded, defense appropriations would show a marked reduction approaching the prewar level of appropriations. For fiscal year 1969, total war costs amounted to almost $29 billion. For fiscal year 1973, they were estimated at about $7 billion. What became of this supposed windfall in savings—the so-called "peace dividend"—once the war was over?

Regretfully, but truly, it has largely been swallowed up by continuing inflation; by the introduction of the all-volunteer concept necessitating higher pay for military personnel; by the ever-increasing sophistication of weapons; and, by devaluation of the dollar. As a result, we are receiving less and less defense for each dollar we spend on the military.

INFLATION COSTS

By far, the largest cause of increased costs—and one that permeates all the others—is an unbridled inflation. Soaring prices and pay costs have not only gobbled up the so-called peace dividend but it is nibbling at the remaining prewar baseline costs. Just a few statistics will help highlight this problem.

During the past 10 years, civilian salaries, including those for wage board employees, have risen by about 85 percent.

During the past 8 months, purchases of supplies, minor equipment, and services have gone up by 8 percent, an inflationary increase of 1 percent per month.

During the period since the time the budget was formulated last fall, the average daily rate for feeding enlisted personnel has increased from $1.65 to $2.15 per day—a 30 percent jump.

I was struck by these astronomical food cost increases and ran a check on 12 common food items served in the mess halls of the military services. I found that these items had, on the average, increased about 60 percent in the past 10 years.

	Cost in 1964 (cents)	Cost today [1] (cents)	Percent change
h. Cost of food items:			
White bread 1 lb.	0.21	0.27	28.6
Round steak 1 lb.	1.04	1.76	69.2
Rib roast 1 lb.	.83	1.54	85.5
Chuck roast 1 lb.	.57	1.04	82.5
Pork chops 1 lb.	.88	1.52	72.7
Bacon 1 lb.	.67	1.23	83.6
Hamburger 1 lb.	.49	.95	93.9
Pork loin 1 lb.	.61	1.12	83.6

	Cost in 1964 (cents)	Cost today [1] (cents)	Percent change
h. Cost of food items—Cont.			
Milk ½ gal	0.48	0.73	52.1
Butter 1 lb	.74	.85	14.9
Eggs 1 doz	.54	.74	37.0
Coffee 1 lb	.82	1.06	29.3

[1] August 1973.

Undoubtedly, inflation has been our No. 1 enemy in our efforts to establish lower costs—to reduce defense spending.

ALL-VOLUNTEER CONCEPT COSTS

Military personnel costs have, in recent years, increased even more markedly, as a result of inflation and the introduction of the all-volunteer concept. The latter has necessitated significant pay increases to make a military career more attractive. It is impossible to completely disassociate these two pressures, and any analysis of the following examples should bear in mind that they are the effect of both factors.

In 1964, a first-class private received $85 a month in pay. Today he receives $366—over four times as much.

In 1964, a sergeant in the grade of No. 7 received $340 a month. Today he receives $789, more than 2¼ times as much. Commissioned officers have received similar increases.

Thus, although the total number of military personnel is presently below the 1964 level, the 1974 costs will have nearly doubled.

INCREASED PRODUCTION COSTS

Weapons and equipment have suffered similar increases in cost. Much of this is due to inflation, but, in addition, the sophistication demanded of modern weaponry has also taken its toll.

In World War II, a B–29 bomber cost $680,000. Today's FB–111 costs $9.5 million—almost 14 times as much.

A P–51 fighter aircraft of 30 years ago cost $54,000. An A–7A of today costs $2.8 million—more than 50 times as much.

Or consider more recent comparisons:

In 1964 the cost of a 2½ ton Army truck was $8,700. Today it costs $15,500.

A jeep has gone from $3,300 in 1964 to $4,160 in 1973.

An M–60 tank produced in 1964 cost $170,000. Today the M–60A1 is priced at $295,400.

A nuclear submarine of 1964 cost about $81 million; today an SSN costs $181 million.

A destroyer escort in 1964 had a price tag of $29 million; the DD–963 in the 1973 budget is estimated to cost a little over $90 million.

CURRENCY DEVALUATION

Finally, a fourth consideration is the effect currency revaluation has had on the cost of maintenance of our military forces abroad. Actually, this has had a double impact on the shrinking dollars spent overseas. Not only has the dollar itself been devalued, but the major countries in which our troops are based have suffered massive inflation similar to that we are experiencing here, forcing our military service to utilize marked down dollars to pay for marked up goods and services. Just one glaring example should suffice. In Germany, the American dollar has declined 33.6 percent in relationship to the deutschemark since last October, when the budget was prepared. While devaluation in other countries has not been as precipitous, the overall effect has been an increase of $375 million in dollar costs to maintain our troops overseas.

BUDGET AMENDMENTS

The impact of inflation and currency revaluation on defense spending was dramatically illustrated in September after our hearings were virtually concluded. Largely as a result of price increases and a shift of emphasis from Southeast Asia, the President submitted budget amendments involving over $1.5 billion in necessary budget adjustments. Currency revaluation, petroleum costs, and food price changes had added about $1 billion to the fiscal year 1974 costs between November 1972—when the budget was prepared—and June 1973. During the same period, inflation on other items had added another $2 billion to the cost of services, supplies, and equipment. This $3 billion increase actually applies to areas of the budget for which $27 billion was originally requested. Half of the $3 billion increase has been absorbed within the appropriation requests and the other half also has been absorbed by means of transferring funds between appropriations through the amendments requested. No additional funds have been requested. The obvious result, however, is less defense for the same money.

PAY ACT INCREASES

Even all this does not reflect the total of swelling defense costs. You will recall that Public Law 93–50, enacted July 1, 1973, provided for increases of about $1 billion in pay for military and civilian personnel for fiscal year 1973. The two pay increases carried out as of January 1, 1973, and October 1, 1973, have been included in the budget requests and will be considered at a later date. They total an estimated $2.7 billion.

THE DEFENSE BILL IN PERSPECTIVE

We hear much talk these days of the necessity for a massive reordering of national priorities, for a greater emphasis on human resource programs. The plain truth is that such a reordering of priorities has already taken place. By any yardstick, spending on defense is declining substantially—as a percentage of the Gross National Product, as a share of the Federal budget, and most dramatically, as a percentage of all Federal spending.

The cost of the Federal Government has increased from $118.6 billion in fiscal year 1964 to $268.7 billion—the administration's budget for fiscal year 1974. This is an increase of $150 billion—or a 127 percent boost within 10 years' time. Defense spending rose during the same period from $49.6 billion to an estimated $79.0 billion—an increase of slightly less than 60 percent.

Ten years ago, 42.8 percent of total Federal expenditures was for the military. In 1968, at the height of the war in Vietnam, military costs rose to 43.6 percent of the total. Now, only 30 percent of all outlays are attributable to the military functions and military assistance programs of the Department of Defense.

The reduction taken in the proportion of our national wealth devoted to defense is even more compelling in terms of the gross national product. Defense programs accounted for 8.3 percent of the total in 1964; they will account for only about 6 percent during fiscal 1974.

At the same time, Federal outlays for human resource programs—education and manpower; health, including medicare and medicaid, income security, and social security; public assistance and unemployment insurance; and veterans' benefits have increased from 28.9 to 46.7 percent. In dollar terms, this is an increase of from $34.3 to $125.5 billion—or nearly half of all Federal expenditures.

From 1964 to 1974, Federal aid to education jumped 440 percent—from $1.1 to $6 billion.

From 1964 to 1974, public assistance rose 248 percent—from $3.1 to $10.7 billion.

From 1964 to 1974, social security increased 236 percent—from $16.2 to $54.3 billion.

From 1964 to 1974, health care and medical services, including medicare and medicaid, climbed dramatically by 4,509 percent—from $393 million to $18.1 billion.

The principal cause of the increase in the cost of Government has not been in military spending during the past 10 years, but in the other items to which I have just alluded.

This is incontestable evidence that, contrary to the misconceptions of many, our Government is spending far less to maintain our national security than it is spending for human needs in nondefense programs.

TRIBUTE TO MEMBERS

I wish to express my sincere thanks to all those members of the committee who have contributed to the formulation of the committee recommendations. I also wish to express again our gratitude to those Senators who appeared before the subcommittee or provided statements indicating their opinions on various items in the bill.

Most of all, I wish to pay tribute to the senior Senator from North Dakota (Mr. YOUNG), who since 1951 has been a member of the subcommittee and since 1967 has been the ranking minority member. His breadth of knowledge, years of experience, and reasoned approach have been of inestimable aid in fashioning this bill. By his actions I know that he shares my belief that we should put the security of our Nation above other considerations.

I wish to thank personally and for the committee the members of the staff who have devoted many months to the technical aspects of the bill and who in recent weeks have spent long days in expediting the measure so that the Senate could have the bill before it today. I refer to James R. Calloway, the committee counsel; Guy G. McConnell, the clerk to the subcommittee; Francis S. Hewitt; Frederick W. Rhodes; Thomas M. Gunn;

Henry Hodges; Nathan Miller; Joel E. Bonner; and Miss Jane McMullan.

They have helped the subcommittee with the bill. They are dedicated public servants. Without their extra help it would have taken us much longer to get the bill to the floor of the Senate; and when we did, it would not have been so well prepared and presented as it is now, because of their efforts. They have been of immeasurable assistance in fashioning this bill.

CONCLUSION

The committee, in reporting the bill, has sought the road of security without excesses, the muscle without the fat, the car without the chrome.

To those who might have hoped for a larger appropriation recommendation, I would reiterate that the committee in its judgment believes that the amounts provided here are adequate for our defense of today and our preparations for the future. To those who might hope for even more substantial reductions in the bill, I would state again that the committee felt the amounts recommended are necessary if we are to maintain a military posture that will be adequate for our defense and serve as a deterrent to any would-be aggressor.

Recent international events indicate that all nations are not yet willing to adjudicate their disputes through diplomatic negotiation. Thus, we must approach the future confident and reassured of our own capabilities. Further arms limitation talks must likewise be approached with strength and determination and not through fear and weakness. Hopefully, today's preparedness may create tomorrow's peace. Meanwhile, as much as at any time in our history, Thomas Jefferson's oftquoted maxim should be our watchword: Eternal vigilance is the price of liberty. I hope this Nation will never forget it.

Mr. President, we hope that the work our committee has reported to the Senate in the pending bill will have the support of our colleagues and that they will find that over all, the committee has performed a good service in its processing of this measure and in the recommendations it has made.

Mr. President, I am glad at this time to yield to the distinguished Senator from North Dakota.

The PRESIDING OFFICER (Mr. HELMS). The Senator from North Dakota is recognized.

Mr. YOUNG. Mr. President, I deeply appreciate the favorable comments just made by the distinguished chairman of the Appropriations Committee concerning my work on this bill. It has meant many months of hard work. In a way, I have enjoyed it, and I have learned a lot from working with the distinguished chairman of the committee on this bill.

Mr. President, I believe the defense appropriations bill we are now considering represents the best possible compromise between the Office of Management and Budget and the Joint Chiefs of Staff, who urgently requested considerably higher appropriations, and a sizable membership in the Congress who have expressed determination to make much deeper cuts in this budget.

Mr. President, the distinguished chairman of the Appropriations Committee, (Mr. McCLELLAN) is a strong believer in an adequate national defense and is to be commended for making sizable cuts in this defense bill—and I believe without serious harm to our national defense.

As the ranking Republican on this Defense Subcommittee, as well as the full committee, I have worked very closely with him and am generally satisfied with this bill. This defense appropriations bill we are considering today totals $73,235,677,000 which is $865,632,000 less than the amount approved by the House; $4,015,046,000 less than the budget request; and $2,148,896,000 less than the appropriations for the last fiscal year.

Secretary of Defense Schlesinger and other Defense officials requested restoration of $1,097,543,000 of the reductions contained in the House bill.

Mr. President, we on the Appropriations Committee believe that restoration of that amount to be impossible. However, we did consider those programs the Secretary of Defense deemed most urgent and critical and approved restoration only of what we believed absolutely essential and in most cases when offsetting reductions could be made in other defense programs.

This defense appropriation is still the biggest of all Federal appropriation bills, but it is important to note that as a percentage of the total budget, it is the lowest since before the Korean war—fiscal year 1950. Some of the major reasons why additional reductions could not be made include:

First. Pay for military and civilian personnel continues to increase. This is largely because of the sizable pay increases which were necessary if we were to end the draft and have an all-volunteer military force. The average serviceman 5 years ago received only about $5,500 a year, and now the average pay for military personnel is $10,000. Even though our military force has been reduced by 1,422,000 since fiscal year 1972, personnel costs still represent 56 percent of the total budget request.

Second. Inflation has caused the price of the weapons systems such as the F–14 and F–15, submarines and tanks to spiral to new highs. A few short years ago a submarine cost approximately $50 million. Today the cost is approximately $180 million.

Third. Purchase prices for goods and services rose in the first quarter of fiscal year 1974 by 5.1 percent above the fiscal year 1973 average. The Department of Defense has estimated that prices for fiscal 1974 as a whole will be about 7 percent above the average of the previous fiscal year. If this is the case, and I find no reason to doubt it, the increased costs will amount to $2.5 to $3 billion without considering pay and allowances.

Fourth. These inflationary cost increases apply to almost every section of our economy and almost everything the American people have to buy. While inflation has added to the costs of our national defense here at home, devaluation of the dollar has meant additional costs to our military forces all over the world.

Mr. President, the Department of Defense has made some serious mistakes in the past. They have often spent billions of dollars on research and development of many weapons systems and then abandoned some of them even before they got into production. After spending billions of dollars, some were abandoned when it was found that the equipment was either obsolete or inferior to Russian military equipment. Let me cite a few examples:

First. The XB–70 bomber entered the development program in 1958 and was terminated in 1967 after $1,468,100,000 had been spent on it.

Second. The F–111B for the Navy cost $384 million between 1961 and 1968 when it was dropped.

Third. Development of the main battle tank commenced in 1964 only to be canceled in 1972 after $234 million had been spent on it.

Fourth. $1,491,900,000 was the cost of the manned orbital laboratory between 1964 and 1969, when it was canceled.

Fifth. The Cheyenne attack helicopter was under development from 1966 to 1972. After $384 million was spent on this helicopter, the program was terminated.

These are some of the more expensive items that were started and the projects never completed. I am sure that a considerable amount of technology which has been applied to other programs was gained in these programs, but still large sums of money were expended without gainful benefit being derived from the original purpose of the program.

In this development of a highly sophisticated equipment of a type that has never been made before, it is understandable that large sums of money can be wasted in research and development. When a project is first undertaken, it is not possible to know exactly what the end product is going to be in this type of research and development. I feel strongly, though, that much more can and must be done to reduce the ofttimes wasteful expenditures in developing new and sophisticated weapons.

With all our mistakes we are still the most powerful military nation in the world. Most of our weapons are superior. However, there are some notable exceptions. The recent Middle East war demonstrated to our alarm, some areas where the Russians had weapons superior to ours. The SA–6 surface-to-air missile supplied by Russia to the Arabian governments is superior to any surface-to-air missile we have.

The antitank missile supplied by the Russians in this war is at least as good as or potentially better than anything we have. The Russian Styx surface-to-surface missile continues to be a threat to our naval forces wherever they may encounter Russian units so equipped. We have developed many similar type missiles, but I doubt if we have one as simple and effective as the Russian Styx missile.

The Russian Foxbat fighter plane flies higher and faster than any fighter plane we have in our inventory. We believe that with some of our weapons used by the F–14, such as the Phoenix missile, will be a superior fighter to anything the Russians have. The F–15, when fully equipped with its new weapons and de-

ployed in our active forces, will also be at least equal to or better than the Russian Foxbat.

Mr. President, I mention these shortcomings in our military system primarily to point out why we must continue—whether we like it or not—to spend large sums of money on research and development of new weapons unless we are willing to become a second-rate power to Russia.

Mr. President, as I previously pointed out, and believe, we are superior in most of our weapons systems.

Both the F–15 and F–14 are needed to replace obsolescent aircraft in the current inventory as well as to provide a viable capability. The Appropriations Committee did not approve the entire request by the Joint Chiefs of Staff for the F–15 and F–14. We believe that within the funds that can be made available our major defense needs will be met.

Our B–52 bombers will soon be 20 years old and are fast becoming obsolete and uneconomical to maintain. There is money in this bill to provide further modifications to the B–52D's in order to sustain their readiness and flight capabilities until they can be replaced. The replacement for the B–52 will be the B–1 bomber—that is, if Congress continues to fund it. The funds contained in this bill are for research and development of this new and much more capable bomber. However, this plane will not be operational for 4 or 5 years.

Mr. President, much has been said about the development of the Trident submarine. The Trident submarine will provide increased capabilities in our submarine launched ballistic missile force. This submarine is needed to replace the original Polaris submarines that cannot be converted to Poseidon submarine. In addition, this submarine will strengthen the position of our negotiators in the Strategic Arms Talks. This program has been funded as requested except advance procurement funds have been reduced by $240 million for submarines five through seven.

These are only a few examples of funds for the procurement of new and more modern weapons systems. I believe this is the minimum we must do if we are to keep pace with the ever-increasing Russian military might.

Mr. President, as I have often said, I do not believe it is necessary now, or ever has been, for the United States to maintain the biggest military force in the world—but I have always strongly believed that the weapons we provide our combat forces should be the most modern possible and not second best to any other nation.

In closing, I want to express the highest commendation and appreciation to the able staff members for their assistance in handling this most difficult of all bills. We on the Appropriations Committee do not have the biggest staff but those we have are very capable.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment, with the understanding that no points of order be considered as waived by reason thereof.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas? The Chair hears none, and it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, line 10, after the word "elsewhere", strike out "$7,131,437,000" and insert "$7,098,050,000".

On page 2, line 18, after the word "cadets", strike out "$5,281,995,000" and insert "$5,271,350,000, of which not to exceed $9,900,000 shall be transferred to appropriate accounts under this head for the fiscal years 1969, 1971, and 1972 but only in such amounts as are necessary for payments to the Internal Revenue Service for unpaid withholding taxes, and the accounts in such fiscal years shall be adjusted accordingly."

On page 3, line 8, after the word "elsewhere", strike out "$1,549,452,000" and insert "$1,547,000,000".

On page 3, line 17, strike out "$6,886,411,000" and insert "$6,863,350,000".

On page 6, line 6, after the word "forces", strike out "$93,382,000" and insert "$104,582,000"; in line 7, after the word "forces", strike out "$1,619,465,000" and insert "$1,652,644,000"; at the beginning of line 9, strike out "$309,678,000" and insert "$310,178,000"; in line 10, after the word "maintenance", strike out "$1,808,832,000" and insert "$1,807,832,000"; in line 11, after the word "activities", strike out "$968,531,000" and insert "$1,087,831,000"; in line 13, after the word "activities", strike out "$321,658,000" and insert "$330,379,000"; at the beginning of line 15, insert "$262,337,000"; in the same line, after the word "all", strike out "$6,133,747,000" and insert "$6,153,747,000"; in line 21, after the word "purposes", insert a comma and "and his determination shall be final and conclusive upon the accounting officers of the Government"; and, in line 25, after the word "facilities", insert a colon and "*Provided further*, That the Secretary of the Army may transfer up to 5 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 10 per centum and the Secretary of the Army shall notify the Congress promptly of all transfers made pursuant to this authority.

On page 7, at the beginning of line 12, strike out "$335,566,000" and insert "$334,236,000"; at the beginning of line 13, strike out "$2,371,731,000" and insert "$2,334,618,000"; in line 14, after the word "communications", strike out "$304,935,000" and insert "$303,225,000"; in line 15, after the word "maintenance", strike out "$2,032,246,000" and insert "$2,036,000,000"; at the beginning of line 17, strike out "$423,822,000" and insert "$451,793,000"; in the same line, after the word "activities", strike out "$354,666,000" and insert "$354,645,000"; in line 19, after the word "activities", strike out "$178,353,000" and insert "$177,285,000"; in line 20, after the word "all", strike out "$6,023,200,000" and insert "$6,013,683,000"; in line 23, after the word "expenses", insert a comma and "as authorized by section 7202 of title 10, United States Code,"; on page 8, at the beginning of line 1, strike out "and payment may be made on his certificate of necessity for confidential military purposes" and insert "and his determination shall be final and conclusive upon the accounting officers of the Government"; and, in line 15, after the word "continued", insert a colon and "*Provided further*, That the Secretary of the Navy may transfer up to 5 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 10 per centum and the Secretary of the Navy shall notify the Congress promptly of all transfers made pursuant to this authority."

On page 9, at the beginning of line 1, strike out "$213,552,000" and insert "$212,374,000"; at the beginning of line 3, strike out "$101,629,000" and insert "$101,254,000"; in line 4, after the word "activities", strike out "$66,527,000" and insert "$66,486,000"; in line 5, after the word "activities", strike out "$29,048,000" and insert "$29,642,000"; in line 6, after the word "all", strike out "$411,645,000" and insert "$410,645,000"; and, in line 9, after the word "facilities", insert a colon and "*Provided further*, That the Secretary of the Navy may transfer up to 5 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 10 per centum and the Secretary of the Navy shall notify the Congress promptly of all transfers made pursuant to this authority."

On page 9, line 19, after the word "forces", strike out "$1,124,154,000" and insert "$1,117,192,000"; in line 20 after the word "forces," strike out $1,014,019,000" and insert "$1,014,082,000"; at the beginning of line 22, strike out "$532,343,000" and insert "$530,843,000"; in the same line, after the word "sealift", strike out "$179,240,000" and insert "$177,530,000"; at the beginning of line 24, strike out "$2,318,938,000" and insert "$2,311,568,000"; on page 10, line 1, after the word "activities", strike out "$517,736,000" and insert "$563,713,000"; in line 3, after the word "activities", strike out "$211,467,000" and insert "$215,882,000"; in line 4, after the word "nations", strike out "$256,733,000" and insert "$150,033,000"; in line 5, after the word "all", strike out "$6,532,100,000" and insert "$6,458,241,000"; in line 8, after the word "expenses", insert a comma and "to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, and his determination shall be final and conclusive upon the accounting officers of the Government; and, in line 15, after the word "facilities", insert a colon and "*Provided further*, That the Secretary of the Air Force may transfer up to 5 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 10 per centum and

the Secretary of the Air Force shall notify the Congress promptly of all transfers made pursuant to this authority."

On page 11, line 4, after the word "activities", strike out "$243,885,000" and insert "$49,749,000"; in line 9, after the word "Service", strike out "$20,194,000" and insert "$20,320,000"; in line 10, after the word "Agency", strike out "$145,649,000" and insert "$148,149,000"; in line 13, after the word "activities", strike out "$450,859,000" and insert "$448,159,000"; in line 14, after the word "all", strike out "$1,650,408,000" and insert "$1,456,198,000"; in line 17, after the word "expenses", insert a comma and "to be expended on the approval or authority of the Secretary of Defense, and payment may be made on his certificate of necessity for confidential military purposes, and his determination shall be final and conclusive upon the accounting officers of the Government"; and, in line 24, after the word "facilities", insert a colon and "*Provided further,* That the Secretary of Defense may transfer up to 5 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 10 per centum and the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority."

On page 12, line 13, after the word "communication", strike out "$255,000,000" and insert "$253,900,000".

On page 12, line 23, after the word "communications", strike out "$172,000,000" and insert "$170,750,000".

On page 13, line 19, after the word "communications", strike out "$223,000,000" and insert "$222,800,000".

On page 14, line 11, after the word "aircraft", strike out "$524,000,000" and insert "$523,839,000".

On page 15, line 7, after the word "Bureau", strike out "$518,000,000" and insert "$510,500,000".

On page 16, after line 7, insert:

CONTINGENCIES, DEFENSE

For emergencies and extraordinary expenses arising in the Department of Defense, to be expended on the approval or authority of the Secretary of Defense and such expenses may be accounted for solely on his certificate that the expenditures were necessary for confidential military purposes: $5,000,000: *Provided,* That a report of disbursements under this item of appropriation shall be made quarterly to Congress.

On page 17, line 10, after the word "purposes", strike out "$139,400,000" and insert "$138,400,000".

On page 18, line 5, after the word "purposes", strike out "$514,600,000" and insert "$525,100,000".

On page 19, line 15, after the word "purposes", strike out "$931,300,000" and insert "$676,100,000"; and, at the beginning of line 16, strike out "$46,100,000 which shall be derived by transfer from "Procurement of Ammunition, Army, 1973/1975"." and insert "$146,100,000, of which $100,000,000 shall be derived by transfer from the Army Stock Fund, and $46,100,000 which shall be derived by transfer from "Procurement of Ammunition, Army, 1973/1975"."

On page 20, line 12, after the word "purposes", strike out "$502,290,000" and insert "$460,590,000"; in line 13, after the amendment just above stated, strike out "of which $200,000 shall be available for reimbursement to the appropriation "Military assistance," "; in line 15, after the word "addition", strike out "$27,000,000" and insert "$39,500,000"; and, in the same line, after the word "which", strike out "$8,000,000" and insert "$20,500,000".

On page 21, line 6, after the word "plants", strike out "$2,785,200,000" and insert "$2,646,700,000".

On page 21, line 23, after the word "plants", strike out "$790,700,000" and insert "$834,700,000".

On page 22, line 12, after the word "amended", strike out "$3,453,800,000" and insert "$3,468,100,000".

On page 23, at the beginning of line 12, strike out "$1,261,000,000" and insert "$1,202,300,000".

On page 24, line 20, after the word "things", strike out "$2,693,800,000" and insert "$2,470,900,000"; in line 21, after the amendment just above stated, strike out "of which $28,300,000 shall be available for reimbursement to the appropriation "Military assistance"; and, on page 25, after "1975", strike out "and of the total funds transferred $41,000,000 shall be available for reimbursement to the appropriation "Military assistance",".

On page 25, at the beginning of line 20, strike out "$1,371,500,000" and insert "$1,392,600,000".

On page 26, at the beginning of line 16, strike out "$1,605,600,000" and insert "$1,589,300,000".

On page 27, line 9, after the word "amended", strike out "$66,000,000" and insert "66,280,000".

On page 27, line 20, after the word "law", strike out "$1,866,458,000" and insert "$1,890,908,000, and in addition, $3,500,000 to be derived by transfer from 'Research, Development, Test, and Evaluation, Army, 1973/1974',".

On page 28, line 6, after the word "law", strike out "$2,616,065,000" and insert "$2,647,945,000".

On page 28, line 14, after the word "law," strike out "$2,998,000,000" and insert "$3,057,000,000".

On page 29, line 2, after the word "law", strike out "$461,400,000" and insert "$457,900,000".

On page 30, line 8, after "June 30", strike out "1975" and insert "1976".

On page 41, after line 5, strike out:

SEC. 718. None of the funds in this act shall be available for the enlistment or pay of non-prior service personnel during fiscal year 1974 when the enlistment will cause the percentage of non-high school graduate enlistments of the service concerned to exceed 45 per centum or the mental category IV enlistments to exceed 18 per centum of the total non-prior service enlistments for the entire fiscal year.

On page 41, at the beginning of line 14, change the section number from "719" to "718".

On page 41, at the beginning of line 21, change the section number from "720" to "719".

On page 42, at the beginning of line 19, change the section number from "721" to "720".

On page 43, at the beginning of line 1, change the section number from "722" to "721".

On page 43, at the beginning of line 8, change the section number from "723" to "722".

On page 43, at the beginning of line 14, change the section number from "724" to "723".

On page 44, at the beginning of line 19, change the section number from "725" to "724".

On page 45, at the beginning of line 3, change the section number from "726" to "725".

On page 45, at the beginning of line 8, change the section number from "727" to "726".

On page 45, at the beginning of line 19, change the section number from "728" to "727".

On page 45, at the beginning of line 24, change the section number from "729" to "728".

On page 46, at the beginning of line 13, change the section number from "730" to "729".

On page 46, at the beginning of line 22, change the section number from "731" to "730".

On page 47, at the beginning of line 8, change the section number from "732" to "731".

On page 47, at the beginning of line 18, change the section number from "733" to "732".

On page 48, at the beginning of line 8, change the section number from "734" to "733".

On page 48, after line 16, strike out:

SEC. 735. During the current fiscal year upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $500,000,000 of the appropriations of funds available to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated, and in no case where the item for which funds are requested has been denied by Congress: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

On page 49, after line 8, insert a new section, as follows:

SEC. 734. During the current fiscal year upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $750,000,000 of the appropriations or funds available to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or funds to which transferred: *Provided,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

On page 49, at the beginning of line 21, change the section number from "736" to "735".

On page 50, at the beginning of line 4, change the section number from "737" to "736".

On page 51, at the beginning of line 12,

change the section number from "738" to "737".

On page 51, at the beginning of line 21, change the section number from "739" to "738".

On page 52, at the beginning of line 5, change the section number from "740" to "739".

On page 52, at the beginning of line 14, change the section number from "741" to "740"

On page 52, after line 18, strike out:

SEC. 742. (a) During the last quarter of the fiscal year 1974, no funds appropriated by this Act shall be used for the pay, compensation, or allowances of commissioned officer personnel on active duty in the Armed Forces (excluding Reserve officers on active duty training or Reserve officers and Retired officers ordered to active duty for periods of thirty days or less) in excess of the following numbers in each grade:

Ranks	Army	Navy	Marine Corps	Air Force
0-10: General or admiral	13	10	2	14
0-9: Lieutenant general or vice admiral	47	44	8	39
0-8: Major general or rear admiral	174	104	24	141
0-7: Brigadier general or rear admiral	232	145	33	196
0-6: Colonel or captain of the Navy	5,080	4,000	594	6,000
0-5: Lieutenant colonel or commander	11,450	8,000	1,500	13,965
0-4: Major or lieutenant commander	17,580	14,800	2,880	21,600

(b) Vacancies within the allowances prescribed by subsection (a) of this section for any grade may be assigned to any lower grade or grades.

On page 53, at the beginning of line 6, change the section number from "743" to "741".

On page 53, at the beginning of line 9, change the section number from "744" to "742".

On page 53, at the beginning of line 12, change the section number from "745" to "743".

On page 54, after line 3, strike out:

SEC. 746. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for the reprograming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprograming is requested has been denied by the Congress.

On page 54, after line 10, insert a new section, as follows:

SEC. 744. Funds appropriated under this Act to contract for medical care for spouses and children of members of the uniformed services who are serving on active duty may not be expended to provide services any less in scope than those provided under section 1079 of title 10, United States Code, prior to December 1, 1973, including special educational training and therapy for handicapped children.

Mr. McCLELLAN. 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. CRANSTON. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. CRANSTON. Mr. President, I would like to discuss with the distinguished chairman one matter which I have discussed briefly with him prior to this session. Before doing so, I want to pay tribute to the committee for the very hard and effective work it did in trimming this huge request for funds. The chairman has produced some very substantial savings which will not injure national defense in any way. As a matter of fact they will strengthen our national defense posture and strengthen our economy by cutting out waste and by reducing overblown military establishment. I congratulate the committee for that accomplishment.

The Navy proposes, Mr. President, to cut expenses by firing nearly 1,500 civilian workers at the Pacific Missile Range at Point Mugu, Calif., by turning over the operation of the range to a civilian contractor. The Navy estimates the conversion will cost $8.2 million of the taxpayers' money, and then, after a transition of several years, the Navy hopes—I stress hopes—to realize an annual saving of only $1.5 million. That figure is strictly tentative, since the Navy does not really know whether there will be any savings until or unless bids are received and they see what those bids show. As yet there has been no systematic appraisal of any kind to bear out the Navy's allegations about savings.

Of course, if we go through the process of spending a great deal of money and proceed to take bids, it might well then be too late to reverse the course of conversion, whether it saves money or not. By then a substantial investment in the conversion process will have been made, and it may well be too late.

Meanwhile, vital test and evaluation functions at the range are disrupted, while regular personnel are transferred, either full or part time, to the business of preparing the transition to a private contract operation. Morale at the Pacific Missile Range is very low. No one's job is secure.

All this is happening at an installation that, according to the Navy, was one of the best run operations in the naval air missile system.

The Navy, according to the man who did the advance feasibility study, had already decided to contract out operations at PMR and merely commissioned him to show cost effectiveness after the fact.

It appears that the primary reason the Navy had for contracting out was to show an apparent reduction in the number of civilian personnel on board.

Many Government departments and agencies are under pressure to reduce the number of personnel. The Senate agrees with that objective. The committee does. Every American would. But presumably there should be some cuts in functions if any significant reductions in expenditures are to be made. But to my knowledge, the functions are to remain the same.

It appears to me that the Navy has not adequately made its case for disrupting the operations of the Pacific Missile Range.

I should like to read from the House report on this matter, as follows:

The committee recommends the appropriation of the full $67,166,000 requested for operation of the Pacific Missile Range in fiscal year 1974 but directs that the range continue to be managed as a Government operation and that no part of the funds be utilized for the cost of conversion to a contractor operation.

The report also states:

It appears that the primary reason the Navy planned to change the operation of the range from government to contractor operation was to show an apparent reduction in the numbers of civilian personnel.

Various departments and agencies are under pressure to reduce the number of Government and military civilian personnel.

Continuing to read from the report—

The committee supports this objective, but believes that the reduction of personnel must be accompanied by a reduction in function. To merely transfer the same function from government personnel to contractor personnel will not save money.

I note that the Senate report indicates the same amount of money has been appropriated, so there is no direct dollar issue involved. It is simply a matter of how the money will be spent.

I should like to add that the minutes of a meeting held in April 1973 at Point Mugu quoted Adm. T. R. McClellan, Chief of the Naval Systems Command, as saying that the decision to convert the range to contractor operation was "unconfused by the facts." Similarly, the man identified at the meeting as responsible for studying cost-effectiveness was quoted as saying that his job was to justify a decision already taken in secret.

So I would like to ask the distinguished chairman of the committee if it would not perhaps be possible at the conference with the House to reach some agreement which would specify that no money should be spent on conversion until the Navy's case is proven.

Mr. McCLELLAN. Mr. President, as I understand it—and I have no personal interest in it—they wish to, and are in the process of making a study, to determine whether it can be operated more economically under a private contract than under the in-house operation. Am I correct?

Mr. CRANSTON. Yes, but the trouble is——

Mr. McCLELLAN. We are not keeping the Department from continuing to operate the range.

Mr. CRANSTON. No.

Mr. McCLELLAN. They are making a study to ascertain whether it can be managed and operated under private contract more economically than it is at present. I can see no objection to that. We are not making any change at this time. They would have to come back here with a report and until we get that report it may be rejected, but I do not know, but I am sure at that time we would all want to evaluate it and make a proper and judicious assessment of the facts. I do not know whether it is or is not more economical to convert. Appar-

ently they have some idea that private operation would be more economical. Generally, I would think there could be no objection if that is true. What is the primary mission of the range.

Mr. CRANSTON. It is a missile range.

Mr. McCLELLAN. Yes, a firing missile range. Personally I do not know at the moment——

Mr. CRANSTON. I should like to make plain——

Mr. McCLELLAN (continuing). It does not strike me that unless there is some situation that I cannot possibly conceive of at the moment, it seemed to me it would be unlikely that private management could operate it more economically than the service itself.

Mr. CRANSTON. I would concur with the chairman.

Mr. McCLELLAN. That is the way it appears to me now, that if at any time we could evaluate the situation to make a determination where economies can be effected, I do not think I would want to oppose it. That is what they are doing, as I understand it.

Mr. CRANSTON. I am not asking the chairman of the committee, or the Senate, or the conference, to oppose that. What I am asking is if it would be possible, in the conference, to work out language with the House, which has taken quite a different position, to the effect that the Navy should not proceed with the actual investment in conversion, or with the implementation of conversion planning, until its case has been established.

Mr. McCLELLAN. I do not believe this language would authorize them doing it. Certainly the language in the House report would not authorize them to do it. I would say to the Senator from California that I would have no objection myself to modifying it, with the House, and agreeing on some language here to make certain that no such transfer is made or changes made until completion of the study. I would be in favor of that. We do not give permission here to make the change.

Mr. CRANSTON. I would appreciate that very much.

Mr. McCLELLAN. That is the way I feel about it, but, at the same time, I can see no reason to say "No, you cannot study, or you cannot even make an examination of the situation, to determine whether economies can be effected." I do not want to say that. But I do not think the Senator wants that, either.

I think the Senator believes in economy in military spending. He has demonstrated that time and again.

Mr. CRANSTON. I thank the chairman very much. What he has said is very helpful.

AMENDMENT NO. 891 AS MODIFIED

Mr. CRANSTON. Mr. President, I call up my amendment No. 891 as modified and ask that it be stated. I send the modification to the desk.

The PRESIDING OFFICER (Mr. HELMS). The amendment as modified will be stated.

The legislative clerk read as follows:

On page 38, line 15, strike the period and insert the following: "; *Provided, however,* That none of the funds appropriated by this Act shall be available to support U.S. military personnel based in foreign countries, not including the personnel assigned to duty aboard naval vessels of the United States, in a number greater than 423,000, a force level to be reached not later than June 30, 1974."

Mr. CRANSTON. Mr. President, I will be quite brief. This is a matter that I have discussed with the chairman. I testified before the appropriate subcommittee and I communicated with members of the committee in regard to this general matter during the time the committee was considering the measure now before the full Senate.

The principal cosponsors of this measure are Senators HUMPHREY, PROXMIRE, SCHWEIKER, and MATHIAS. The main provisions require that of the roughly 61,000 military personnel cut by the Appropriations Committee, 40,000 must be cut from overseas.

I want again to congratulate the committee on surpassing the House in increasing the overall manpower cut in this bill. The committee has taken a very fine step in a necessary direction.

The 40,000 reduction proposed in my amendment is to be made in land-based U.S. troops stationed on foreign soil by June 30, 1974. This is an 8.6 percent cut.

Naval personnel assigned to the fleets are excluded from the cuts, even if homeported overseas. Troops in U.S. territories and possessions are similarly excluded. The cuts may be made anywhere in the world. Discretion is left to the President.

The main arguments for the measure I have just described are as follows:

First, it conforms precisely to previous Senate action.

The Byrd-Humphrey amendment to the military procurement authorization bill, adopted by the Senate on September 27 by a vote of 48 to 36, required the same cut in overseas troops—40,000 by June 30, 1974. That amendment was dropped in conference.

Second, the total direct and indirect cost of maintaining overseas troops—including backup, logistics, et cetera—is very roughly $30 billion a year. There are approximately 463,000 nonfleet personnel stationed in foreign countries, of whom 291,000 are in Western Europe and related areas and 182,000 in Southeast Asia, the western Pacific, and elsewhere.

The Defense Department directly or indirectly employs 167,000 foreign nationals to support them on 1,963 bases in 34 countries.

In general, this pattern became established during the cold war, at a time when our allies were poor and relatively defenseless. Vast U.S. military and economic aid programs, plus general détente, have made deployment on such a massive scale obsolete. The purpose of overseas deployment was originally to permit allies to develop their own economy and defense under U.S. protection; deployment was never intended to be permanent.

Third, the balance-of-payments cost associated with overseas military spending is roughly $4.9 billion a year, eroding the dollar and contributing to inflation. A withdrawal of 40,000 U.S.troops from foreign countries works out to a balance-of-payments saving of roughly $347 million after the first year, and roughly $94.5 million in the first year.

Fourth, Defense Department spokesmen have indicated that an overseas troop cutback is under consideration, but this has been true for some time, and no significant results have been forthcoming.

Fifth, the amendment would not affect the security of Israel, since the U.S. Sixth Fleet would be exempted from cuts.

Sixth, the improved transport and mobile force capacity of U.S. forces permits a rapid response to crisis. Forward-based deployment's unnecessary in many cases.

Seventh, cuts could be made in support forces rather than primarily in combat strength. The U.S. "tooth-to-tail" ratio is heavily imbalanced If necessary, our allies could fulfill more support functions.

That, in essence, is the nature of this amendment. At an appropriate time—but not now, when so few Members are in the Chamber—I will request the yeas and nays on this amendment. I will say no more at this point.

(At this point, Senator WILLIAM L. SCOTT assumed the chair.)

Mr. McCLELLAN. Mr. President, as the record of votes in the Senate in the past will demonstrate, I am fully in sympathy with what the distinguished Senator is trying to do. Not only have I voted that way in the Senate Chamber, but also, in public addresses, I have stated my position—I am speaking now as to NATO—I believe we should and can reduce our troop strength over there.

As to other places the Senator may have in mind, I do not know. As we considered this bill, I had in mind to try to find some way to bring about a reduction in troops abroad. But in view of the developments that have occurred recently, and in view of the attempts now being made in Western Europe for us to reach some accommodation about conditions that now prevail, as well taking into account the situation in the Middle East, which the Senator says he exempts, I doubt that it is wise to make adjustments in this fashion.

Mr. President, we have taken this matter up with the Defense Department, and I should like to read from our report. We have given this matter careful consideration. We are going into it, and we are going to require reduction of these forces wherever we can demonstrate that it is feasible and that in doing so we will not do injury to our military position and responsibilities. I read from page 18 of the committee report, the top paragraph, entitled "Department of Defense Programs, Reduction in Overseas Troops and Facilities." In connection with this reduction of troops—and that is all this applies to—we also want to close bases in certain places where we find they can be discontinued and thus bring those troops home. The committee makes this report:

The committee is concerned about the number of our troops stationed abroad and the high cost incurred in maintaining and supporting this force.

Mr. President, I had quite a conversation with the Secretary of Defense about this matter before this bill was reported. Senator YOUNG, the ranking minority member, is also interested in this matter, and we discussed it together and with the Secretary of Defense.

The committee has frankly discussed this situation with the Department of Defense and has intended to impose a reduction in the number of overseas troops and facilities. We have held this action in abeyance, however, upon receiving firm assurances from the Secretary of Defense that the matter is under active consideration and that recommendations will be submitted to the committee in the very near future.

The committee intends to pursue this matter on its own and if such action is not forthcoming, it will undertake to impose overseas force reductions during fiscal year 1975.

We have in mind—and we are in the process of developing this information—requiring the closing of a number of bases overseas and requiring those troops to be brought home. I will support that. I can give my colleagues absolute assurance that in the next bill, next year, we will not only have a reduction of personnel, but also, we will have a number of bases ordered closed and the persons brought home.

This should have been done before now. But I remind the Senator that I became chairman of this committee a little more than a year ago, after I had been engaged in a hard campaign, and we did the best we could with the bill last year.

This year, we have worked on it constantly, to try to find areas in which we could make the reductions for which the Senator has commended us.

As to this proposal, we feel it needs a little further study and a little more examination before, in a meat-ax fashion, we reduce our forces by this amount.

I know the Senator does not intend to do anything that would be a disadvantage to us in any operation we might have to engage in, in the Mediterranean.

As the Senator knows, we have 122,000 troops in territories and our possessions and on ships. We have a total of 585,000 that might be termed overseas forces.

I point out that of that number 122,000 are on ships, and in our possessions and in our territories. That leaves 463,000 from which the Senator wishes to take the number he has suggested. I do believe that we should do this in a little more orderly and thorough manner. We have 319,000 troops in Europe. My own feeling is that we could take out a minimum of 69,000 of those troops and still have that token force over there, an adequate token force for our purposes.

Some of these matters have become bogged down in negotiations between our allies and Secretary Kissinger and others who are trying to resolve this at this time.

However, I am certainly willing next year to come in here with a specific reduction—and I cannot guarantee it—that would equal what the Senator wants to do. I believe that is a better approach to the problem.

Suppose something does occur. I hope it does not, but it could. We had a potential threat recently. Suppose something should occur where we would have to send additional strength into the Mediterranean area. If we were to make this cut we would find ourselves in a distressing situation. I think we should weigh it in light of what the committee has undertaken to do.

The committee wishes to make an intelligent judgment in this matter. They are fully apprised that this problem is coming to a head. We have not been deceiving them. They fully understand what we are talking about. I am confident they are busily at work to meet the requirements of the committee.

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

Mr. McCLELLAN. I yield.

Mr. YOUNG. Mr. President, I take the same position that the chairman of the committee takes. We both are for reducing forces overseas and we have voted for it.

Mr. McCLELLAN. I know I voted for it.

Mr. YOUNG. But I believe this is the wrong time to do it. The committee bill does cut funds so deeply that they will probably be forced to do it anyway.

To mandate a reduction now when talks are going on with NATO, I do not think it would be the right thing to do. I hope the Senator from California would not press his amendment because it is not the appropriate time to do it.

Mr. McCLELLAN. I believe there are 61,000 troops now and with this cut which we will make next year in some fashion and to some degree, would make it 40,000 or maybe more. I indicated a few moments ago I was thinking in terms of about 69,000 because I am persuaded that if we maintain 250,000 troops over in NATO we are doing our part so far as providing troops and personnel. That is the goal I have in mind if we can reach it.

I would not oppose what the Senator is trying to do, but I am simply trying to do this in a fashion that will be in keeping with the best orderly process of making a reduction in our troops abroad.

Mr. CRANSTON. I thank the Senator.

Mr. McCLELLAN. I am willing to go ahead, unless the Senator wishes to suggest a quorum and vote now.

Mr. CRANSTON. I would like to ask a couple of questions. I appreciate very much the Senator's approach to the matter, and I know he is generally in support of these objectives.

The Senator spoke of the Middle East problem. The major U.S. force in that general area is the Sixth Fleet, which is exempted from this amendment.

Mr. McCLELLAN. I understand that.

Mr. CRANSTON. I do not specify in the amendment that the cuts would have to come in NATO countries or in any other particular place.

Mr. McCLELLAN. I know, but I have indicated where I think it should take place.

Mr. CRANSTON. I would like to ask the Senator whether or not there has been substantial progress toward mutual force reductions in Europe.

Mr. McCLELLAN. I think we have reduced overseas, and I believe we can reduce further.

Mr. CRANSTON. If we find that multilateral force reductions are getting nowhere, will the Senator favor cutting U.S. troops in NATO countries, as well as elsewhere in the world? These options have been under discussion for years.

Mr. McCLELLAN. I certainly emphasize that is now my position. I expect to continue that position. Something could happen to cause me to change my mind.

I do not foresee any such contingency, but I do not know what world conditions in Europe will be when we are marking up the bill, so I cannot make a commitment. But I submit what I have said today, reinforced by my past record as to my good intentions at the moment.

Mr. CRANSTON. I understand the Senator's intentions. I know he has favored overseas troop reductions for a long time. The thing that bothers me is that we have not yet had legislation that mandates a cut.

Mr. McCLELLAN. It is a delicate matter. We do not have the legislation but the colloquy that we are having on the floor now, in my judgment, will have some significant effect in the next few months. I hope it will.

Mr. CRANSTON. I certainly hope it will.

I wish to ask one other question of the Senator. I have adopted a very minimal figure in suggesting a cut of 40,000, which is far smaller than that presented to the Senate in September during debate on the authorization bill.

I know the Senator cannot be specific, but I would hope if we could agree on, say, a cut of 30,000 now, there might be a larger cut a year from now. And if I do not press the amendment now, I hope the Senator will be shooting for something higher next year.

Mr. McCLELLAN. I am not going to promise but I have indicated what I think about NATO. It would be 1½ times more, 1¾ times more than what the Senator is asking to cut this bill. I think we could do that but I point out that there are a number of bases abroad, installations that should be closed and we are working on that, and that will mean as we close them, those people will be brought home. I do not believe they would be redeployed somewhere else. In fact, the purpose is to close the bases and effect the savings.

Again, I cannot speak for the entire committee. After all, I am only the chairman and preside and have only one vote. On this subcommittee we have some very fine personnel and I think most of them are in sympathy with the Senator's objectives. That would be my estimate of the matter.

Mr. CRANSTON. I would like to ask whether or not the distinguished Senator representing the minority side on the committee concurs with the chairman, who, of course, has indicated that he can speak only for himself and not for the committee. The question is whether or not significant steps can be taken next year toward the reduction of troops—unless, of course, the world situation alters in such a way that more troops are called for.

Mr. YOUNG. Mr. President, my position is substantially the same as that of the chairman. I have been hoping for years that this could be done. I am very sympathetic to the Senator's objective.

I hope we can accomplish the Senator's objective in another year. I would not vote for it right now, because I think it is the wrong time to do it in view of the world situation. However, although I am very sympathetic with the idea of the Senator from California, I hope he will not press his amendment today.

Mr. CRANSTON. Mr. President, in view of the assurances given by the two Senators who have considerable influence in the committee, and because these Senators say that they will work toward achieving our common objective, I will withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill is open to further amendment.

Mr. McCLELLAN. 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. PASTORE. 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. PASTORE. Mr. President, I send an amendment to the desk and ask to have it stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment, as follows:

On page 25, line 20, strike "$1,392,600,000" and insert the following: "$1,395,800,000".

Mr. PASTORE. Mr. President, the House did not allow $4.3 million for the procurement of transponders for the Air Force satellite communications system. Deletion of the transponder package from the host satellite will result in a critical reduction in our strategic communications capability.

My amendment restores $3.2 million of the House reduction. This is the amount required to provide the necessary survivability and reliability to this communications system.

This was an inadvertence. I understand the committee is ready to accept the amendment, and I shall not pursue it further.

Mr. McCLELLAN. Mr. President, I thank the Senator. Yes, Mr. President, through an inadvertence it was left out. I am sure the distinguished Senator from North Dakota will agree with me.

Mr. YOUNG. Yes, Mr. President; it was my understanding that we intended to put it in.

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

The amendment was agreed to.

Mr. PASTORE. 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. PASTORE. 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. PASTORE. Mr. President, I send to the desk an amendment on behalf of the Senator from Tennessee (Mr. BAKER), which I ask to have read.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment offered by Mr. PASTORE in behalf of Mr. BAKER, as follows:

At the appropriate place in the bill insert a new Title as follows:

TITLE—DEFENSE MANPOWER COMMISSION

There is hereby appropriated the sum of $750,000 for use in carrying out the provisions of Title VII of the Department of Defense Appropriation Authorization Act, 1974.

Mr. PASTORE. Mr. President, this is a very simple amendment. It is being suggested by the Senator from Tennessee (Mr. BAKER). It has to do with adding $750,000 for a Defense Manpower Commission study. I understand this study was placed in the committee report but does not appear in the bill. We thought it would be feasible to put it in the bill.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I raised this question in the Committee on Appropriations. The figure was $500,000. The committee unanimously voted to raise it to $750,000.

Mr. YOUNG. Mr. President, the committee approved the item by putting it in the report, so I have no objection.

Mr. GOLDWATER. Mr. President, it was in the authorization bill but, frankly, we have the Armed Services Committees of the House and the Senate and the Appropriation Committees of the House and the Senate studying this all the time. In fact, it now charged to the Armed Services Committee that we set the troop level or strength of the military. I think we would only be doing something redundant if we appropriated $750,000 to do what we are already doing today, and, on top of what the committees are doing, this matter is in constant perusal by all branches of the military and the Joint Chiefs of Staff in the Pentagon.

It is not a large sum of money, but what I am concerned about here is that if we keep adding these sums to study the same thing, we have this duplication of effort. I would rather see funds to study procurement. I think procurement is a dark and fuzzy field, about which we do not know too much, and where we can save money. All of us are familiar with the problems of personnel. We have considered the Joint Chiefs of Staff's recommendations on personnel, plus our own particular determinations in committee.

Mr. President, I am not too strong in my opposition to this. I think it is another appropriation that we do not need, because it would create another commission to do something that the woods are full of right now.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, it is correct, I think, that this provision is in the authorization bill. I have not personally considered this matter myself. But, so far as any implication here is concerned that the committees are not doing anything about this, I want to strongly refute that idea because the committees have been effective in it for 2 or 3 years, more effective than the membership has a chance to know.

Mr. President, we really have an expert in this field. Personnel is the most difficult of all problems. I would like to know who appoints the members of the Commission, and how they are selected.

Mr. MANSFIELD. Mr. President, the amendment was offered on the floor of the Senate. It was accepted unanimously. The authorization for $2.5 million for a 7-member commission was authorized at that time. When I appeared before the Appropriations Committee yesterday, the figure of $500,000 was mentioned. I asked that it be raised to $700,000. The committee, of which the Senator is a member, unanimously agreed to that.

The Speaker and the minority Member of the House have made their appointments. The Senate will make two appointments. The President will make three appointments. This is a commission to do something that in no way interferes with what any other commission is doing. It is worthwhile. I think that what the Armed Services Committee authorized and what the Appropriations Committee approved unanimously ought to be granted on the floor of the Senate.

Mr. STENNIS. Mr. President, the reason I am unfamiliar with the matter is that I have had an enforced absence here. I was away one day this week, and that was the day the provision was discussed before the full committee.

I can see where this matter, if properly handled, could be of assistance to us. However, I may suggest that whoever serves ought to be someone who is an expert in this field, some of the members ought to be. It is a matter that I have tried to deal with.

Mr. PASTORE. Mr. President, the only reason I offer the amendment is because what the distinguished majority leader has said is true. The matter was brought up before the committee. I was there. The distinguished Senator from Mississippi could not be there because he was engaged on official business elsewhere in the Capitol. In his absence it was approved unanimously. I do not remember one dissenting vote. And that is the reason I took it upon myself to offer the Baker amendment.

Mr. BAKER. Mr. President, the amendment would add a new title to the bill and would appropriate $750,000 for the establishment and operation of the Defense Manpower Commission through the end of the present fiscal year. Although the Commission was mandated by title VII of the military procurement authorization bill recently signed by the President, and although that authorization provided for $2.5 million for the 2-year study, the Department of Defense failed to request any money for this matter when they sent the appropriation bill to the Congress. I do not wish to speculate on why the Pentagon failed to do so, but it would seem fair to assert that they usually do not forget things they want and vice versa.

In any event, the purpose of this

amendment is to carry out the will of the Congress as expressed in the military procurement authorization bill passed over 2 months ago.

In lieu of a specific request from the Department of Defense, the Appropriations Committee left specific funding for the Commission out of the bill itself. Instead, they recommended in the report that the Secretary of Defense use $750,000 of the funds appropriated for his own "activities" to create the Commission. I do not question the Pentagon's willingness to comply with the request of the committee eventually. What I do question is whether that request will be met in time for the Commission to be underway before the spring. As many of my colleagues know, there are a number of manpower-related proposals presently pending before the Armed Services Committees in the House and the Senate. I am told those proposals are to be considered next year sometime. If the Commission is to have any input on this important legislation, it will have to be established and underway no later than the end of February. It is for this reason that I have proposed a specific appropriation of funds so that as soon as this bill is signed into law, the Commission might begin discharging its ambitious mandate.

That mandate, which calls for the appointment of seven individuals, four by the Congress and three by the President, requires the Commission to conduct a comprehensive study and investigation of the overall manpower requirements of DOD, both short term and long term. In carrying out such a study, the Commission is urged to give special consideration to—

First, the effectiveness with which civilian and active duty personnel are utilized, particularly in headquarters staffing and in the number of support forces in relation to combat forces;

Second, whether the pay structure, including fringe benefits, is adequate and equitable at all levels;

Third, the distribution of grades within each Armed Force and the requirements for advancement in grade;

Fourth, the cost-effectiveness and manpower utilization of the U.S. Armed Forces as compared with the armed forces of other countries;

Fifth, whether the military retirement system is consistent with overall Department of Defense requirements and is comparable to civilian retirement plans;

Sixth, the methods and techniques used to attract and recruit personnel for the Armed Forces, and whether such methods and techniques might be improved or new and more effective ones utilized;

Seventh, the implications for the ability of the Armed Forces to fulfill their mission as a result of the change in the socioeconomic composition of military enlistees since the enactment of new recruiting policies provided for in Public Law 92–129 and the implications for national policies of this change in the composition of the Armed Forces; and

Eighth, such other matters related to manpower as the Commission deems pertinent to the study and investigation authorized by this title.

There are a number of reasons why Senator BENTSEN and I proposed such a comprehensive study. Despite the fact that the United States is no longer engaged in combat anywhere in the world and that there has been a general improvement in relations with the Soviet Union and the People's Republic of China, we are nevertheless spending more on defense than ever before. This has prompted many Members of both bodies and their respective committees, to undertake a more extensive examination of the defense budget than usual and to support a variety of cuts in an effort to justify the expenditure of every dollar. I do not question the objective of such an exercise; in fact, it represents the essence of legislative oversight. But what I do question is an almost unavoidable tendency to devote the preponderance of our frugality to the most visible pieces of hardware in the defense budget. We do so to the exclusion of civilian and military manpower when manpower in the past 20 years has accounted for 93 percent of the increases in defense spending and 96.4 percent in the past 10 years. Moreover, this year, manpower narrowly defined, accounts for 56 percent of the total defense budget. But if we include all manpower-related expenditures, we find that over 66 percent of the total defense budget is going for personnel as opposed to weapons.

This is not to say that I oppose the closest scrutiny of expenditures on all weapons projects, nor that I am unaware of attempts by the appropriate committees of Congress to deal with the issue of manpower; but rather that unless we attempt to come to grips with this complex issue with the same meticulous zeal that we have devoted to weapons in the past, then I fear we run the risk of eventually pricing our defense program virtually out of existence. It is for this reason that Senator BENTSEN and I originally proposed the Commission, and it is for this reason that the Congress agreed to that proposal in the military procurement authorization bill. The amendment we now offer is to provide adequate funding for the Commission so that it might proceed immediately to the task before it.

I urge my colleagues to support this effort.

Mr. BENTSEN. Mr. President, I am delighted that the Appropriations Commitee has accepted the amendment of the senior Senator from Rhode Island to provide $750,000 for the Military Manpower Commission approved by the Congress as part of the military procurement bill.

The report issued by the Senate Appropriations Committee authorizes the Secretary of Defense to transfer funds in this same amount for the Commission. Normally, this would be sufficient to insure that the funds would be made available in a timely and cooperative fashion, but I am concerned that this may not be a normal case. The Department of Defense vigorously opposed the establishment of this Commission when it was considered by the House-Senate conferees on the proceurement bill. After the Commission became law, the Department still made no request to the Senate Appropriations Committee in order to provide funds for the Commission. And now we come to the final consideration of this matter with report language that only "recommends" that the Department of Defense make funds available for the Commission. For these reasons, I believe that the committee has acted most wisely in accepting the amendment of the senior Senator from Rhode Island (Mr. PASTORE).

The work of the Manpower Commission may prove to be one of the greatest aides the Congress has in dealing with the military personnel issues that will face us in the next 2 years.

Particularly, I am referring to the staggering increases in Department of Defense personnel costs both civilian and military. Current estimates are that the defense budget will exceed $115 billion by 1980. A staggering figure—particularly when one considers that approximately two-thirds of that amount will be attributable to the direct and indirect cost of personnel.

This is a trend that has developed over the last 20 years and which has reached such startling proportions that serious questions must be asked about the entire structure of our military manpower policy. Some figures might be illustrative.

During the 20-year period between 1954 and 1974, defense outlays increased by about $35 billion. Of that amount, 93 percent, or $33 billion, went for pay and operating costs, with only 71 percent going for capital investments such as weapons and construction.

Manpower costs have not only increased as a percentage of the defense budget, but we are actually paying significantly more in personnel costs for significantly fewer people. For example, defense is paying $22 billion more in fiscal year 1974 than in fiscal year 1964 in pay and allowances for 400,000 fewer military personnel.

The average cost of maintaining a U.S. serviceman on active duty has increased from about $3,400 in 1950 to about $12,400 in 1974, an increase of 262 percent.

Now I am not urging that we can or should provide for defense manpower costs at the same rate we did in the 1950's. I am saying, however, that we cannot afford to utilize personnel today as we did when $75 per month paid a private's salary and, regrettably, that is too often the case.

The purpose of the Manpower Commission, then, will be to examine the personnel pipeline of the Department of Defense—specific recommendations on how reforms can be made and savings achieved.

I believe this Commission can make a significant contribution to congressional understanding of these personnel issues and will prompt congressional action to bring these costs under control. I hope the conference committee will accept the Senate position on this item and I commend the chairman of the committee, Senator McCLELLAN for his work on this vital issue.

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

the Senator from Tennessee (Mr. BAKER). (Putting the question.)

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HATHAWAY. Mr. President, I send an 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 44, line 11, beginning with the word *"Provided,"* strike out all down through the colon in line 14.

Mr. HATHAWAY. Mr. President, this amendment to the defense appropriation bill would strike from it the provision which prohibits the payment of a price differential on contracts made for the purpose of relieving economic dislocations. This prohibition, commonly referred to as the Maybank amendment, has the effect of severely limiting the Government's program of aiding areas of high unemployment through the award of contracts. In my opinion, it is time that we reconsider the purpose of this provision in light of the present economic conditions. It is my understanding that this limiting language has been included in each of the defense appropriation bills since 1953.

It was originally inserted in the act to prevent negotiations of contracts at premium prices with firms in labor-distressed areas. The debate on the prohibition, when it was first introduced, centered around the textile industry, with the concern expressed that some mills would be favored over others. But many of the problems within the textile industry have long since been changed. This was back at the time when the New England textile industry was moving south; and in an effort to keep some of the textile industry in New England, the Defense Department was inclined to award contracts at a higher price to New England mills than to the southern mills. The Maybank amendment was offered by the late Senator Maybank of South Carolina to prevent that from happening, so the Secretary of Defense went along with it.

But that problem has taken care of itself. Most of the textile mills have moved south, very few are left in the New England area, and the problem that the Maybank amendment was intended to take care of has been taken care of. Over the years, this amendment has been left in the act, even though, in my opinion, at least, it has outlived its usefulness.

What is left, however, through the prohibitory language is the requirement of a guarantee that any contract which is awarded as a result of preference procedures to firms that qualify for labor surplus area assistance must be awarded at the lowest possible prices.

By requiring this guarantee, any procurement of goods or services which is suitable for award to labor surplus area firms must be split. One part of the requirement is open to unlimited competition by all firms interested in performing the contract. The other part is set aside for the exclusive award to labor surplus area firms. The labor surplus area firms must then meet the price which was competitively reached on the non-set-aside portion. In this way, it has been ruled that the Government is assured of receiving the lowest possible price on the contract awarded to the labor surplus area firm.

If, for example, the Government wants to have a thousand widgets made, it can specify that 200 of the widgets must be made in a labor surplus area; but the other 800 widgets are to be open for competitive bid. Once the price has been established by competitive bidding throughout the country in labor surplus and nonsurplus areas, that is the price that the Government will pay for the 200 that will be made in the labor surplus area.

While I firmly believe that the Government must seek competition and achieve a competitively derived price whenever it is possible to do so, I do not see the reason for this complicated procedure, which greatly restricts the labor surplus area program.

What I am suggesting by the deletion of this prohibition in the defense appropriation bill is simply to restore the right to the procuring agencies to set aside totally an appropriate procurement for firms which qualify under the labor surplus area program.

To go back to the widgets example, the Defense Department could put the entire 1,000 widgets out for bid but restrict the bidding to firms located in labor surplus areas throughout the country. This does not mean that the Defense Department would be allowed to say that the widgets could be bid on only in labor surplus areas in New England, in California, or in any other geographical area in the country; it means simply that bidders would be restricted to those in labor surplus areas throughout the entire country, so there would be bidders on widgets all the way from Maine to Hawaii.

But it would restrict it to manufacturers in those areas alone, and in that way we would be assured that those labor surplus areas are going to get a greater share of Defense Department contracts than they are getting at the present time.

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

Mr. HATHAWAY. I am glad to yield to the Senator from Rhode Island.

Mr. PASTORE. I quite agree with the Senator that there was a time, at the time of the exodus of the textile industry out of New England to the South, which was a rather agonizing experience for all of us in Rhode Island. I was Governor at the time. At that time 45 percent of our gross income came from the textile industry, and it dwindled until it is now less than 15 percent.

Even the South now has troubles with the textile industry, because most of it has been severely damaged by textile imports from Japan, and underdeveloped countries.

We in Rhode Island have been and are very much distressed by the closing of our naval facilities. With less than 1 percent of the population, we have taken 50 percent of the cuts in naval installations.

We are a labor surplus area, and it looks to me as though the evolution has come about that, whereas this provision was originally intended to help the South, since the Navy has now moved to the South, I believe the spirit of the Maybank amendment should be reversed to be of more assistance to us.

I think the amendment ought to be studied. I think the Senator makes a good point, but I would be rather reticent, at this time, to push an amendment to delete it completely from the law without it being given a study. If it is true that it would bring about the effect the Senator from Maine would like to bring about, I will be the first one to go along with it. I think if we could get a promise from the committee that they would look into the amendment and come back with a report early next year, we would all be better off. We are a labor surplus area in Rhode Island.

Mr. HATHAWAY. Yes, you are. The Defense Department defines a labor surplus area as an area of high unemployment. In other words, you have a lot of people who are out of work.

That is the way the Defense Department defines an area of high unemployment.

Mr. PASTORE. Does the Senator say this amendment is intended to help the unemployed?

Mr. HATHAWAY. Yes; I am going to go on, in my remarks, to state what an area of surplus labor is considered to be. There are three categories of them: areas of substantial unemployment, areas of sustained unemployment, and areas of concentrated unemployment or underemployment. The Maybank amendment was intended to prevent the Secretary of Defense from awarding a contract, we will say, for Army uniforms to a textile mill in New England at a higher price than he would award the same contract to a textile mill in South Carolina, in order to keep the New England mills where they were.

Mr. PASTORE. Like we did on the Small Business Administration?

Mr. HATHAWAY. Senator Maybank put in this amendment to prevent that from happening, so that the Secretary of Defense would have to buy the uniforms at the same price from a New England mill or a southern mill. At that time the southern mills were able, because of lower labor costs, to bid much lower than the New England mills were.

Mr. PASTORE. I will have to support the Senator's amendment.

Mr. HATHAWAY. I realize that the term "labor surplus area" as used by the Department of Defense is rather misleading, but they actually mean areas of high unemployment.

Mr. President, I have the matter broken down in a little greater detail. I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the definitions of labor surplus areas.

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

(See exhibit 1.)

Mr. PASTORE. Mr. President, I am afraid that if we pursue this, we may take a chance of losing it, which I think is quite likely on the floor of the Senate at the present time. I repeat my plea that if we could get a promise from the committee, I will stand shoulder to shoulder with the Senator from Maine to see that this equity is brought about. I think we would be much more successful. I am afraid if we push it at this point, we would weaken our position.

I think the question at this time is to help the areas that are depressed. I think it would be to the future benefit of the overall economy if we did something along that line.

Mr. HATHAWAY. I appreciate the remarks of the Senator from Rhode Island.

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

Mr. HATHAWAY. I yield to the chairman.

Mr. McCLELLAN. If we take this amendment—assume we take it and go to conference—we go to the conference without any record. There is confusion as to what it means and how it would apply. We would not get anywhere with it, in my judgment.

Moreover, if we lose it over there this year, and go back there next year, they would say, "Well, there was opposition about that last year."

I do not know the answer, but we have had no opportunity to study the matter, it was not before the committee. This provision has been in the law for 20 years, and I am reluctant, in behalf of the committee, to accept the amendment and take it to conference, because, to repeal the law, we ought to have adequate hearings on it. We must know what the effect has been, what the harmful effects are, why its effectiveness would no longer prevail, and why we should discontinue it.

We have this problem, and I would like for all Senators to think about it. This committee, in trying to handle a $75 billion defense bill, has a terrific job. It is just stupendous, and we need the help of our colleagues. We need this assistance.

Where Senators find something that perhaps ought to be changed and corrected, with less money for this and more for that, we need your help. Come forward and give us the facts, so that we can evaluate it, because it is awfully hard to do it on the floor of the Senate.

Of course, Senators have that privilege, but if we can get our colleagues, when they detect these things in time, to give them to us and let us study them, it will be very helpful, and as a result we will often be able to resolve the matter before we get to the Senate floor.

I would hope the Senator would be agreeable to proceed in accordance with the suggestion made by the Senator from Rhode Island. I do not want to fight it or oppose it; I do not want to get in that position, because I do not know; but it would strike me that it is putting a lot of power in the Defense Department to say, "Well, you go over here and make a contract and pay a lot more for something than you could if you got it somewhere else."

It is not an altogether one-sided issue.

Mr. PASTORE. Mr. President, if the Senator will yield, of course, there is precedent for it. It was done in the Small Business Administration. And I think, after all, if we do have a depressed area anywhere in the country, it is essential to the national stability, because without stability in the economy, I do not think we will have good security.

There was a reason for doing this, and I think the whole thing should be reviewed very academically, and we should try to get the right answer.

I thank the Senator for yielding.

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

Mr. HATHAWAY. I am glad to yield to the Senator from North Dakota.

Mr. YOUNG. I am sympathetic with the Senator's objective, but I think we really should have hearings on this matter, because we have a problem with the energy crisis, and there may well be depressed areas all over the United States. I do not know how the Defense Department would determine which would be the worst depressed area. We do have some unusual problems now.

Mr. HATHAWAY. As I mentioned in the course of my remarks, it would not be done on a geographical basis. It would be done the same way that small business contracts are let now by the Department of Defense. In other words, they let contracts that can be bid on exclusively by small business firms throughout the country, not on a geographical basis. The same rule would apply with respect to depressed areas or areas of high unemployment, and not on a geographical basis. A contract would be put out by the Department of Defense and the only bidders would be those firms located in areas of high unemployment throughout the country. The Secretary could not designate a certain geographical area.

But I agree with the remarks of the distinguished Senator from Rhode Island (Mr. PASTORE) that this matter should be studied by the committee. I appreciate the assurances given to me by the chairman and the ranking minority member that such a study will be undertaken before the Defense appropriation comes up next year.

Mr. PASTORE. This is legislation I would hope within the very near future that the Senator from Maine (Mr. HATHAWAY) would introduce a bill on, to do exactly what he is proposing now; so that then, he and I can appear before the subcommittee and make our presentation.

Mr. HATHAWAY. I thank the Senator from Rhode Island. I have introduced a bill to allow priority for defense contracts in areas of high unemployment, and I appreciate the remarks of the Senator from Rhode Island, that he will work with me on a bill to accomplish what the pending amendment is trying to accomplish. With the assurances that have been given to me on this matter, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HATHAWAY. Mr. President, to complete my remarks, may I say that those qualified firms which would be bidding on this set-aside would be competing among themselves and their prices would necessarily be competitive. Unless the prices bid in the set-aside are fair and reasonable, the Government would be justified, and indeed should, cancel the set-aside and readvertise the procurement without restriction. I have faith in our procurement officials that they would recognize when the bids might appear excessive compared with current prices in the marketplace and take appropriate action. A total set-aside for labor surplus area qualified firms would not be an opportunity to take advantage of the Government.

May I add that the contracts awarded under this program are for the goods and services which the Government routinely purchases to meet its needs. It is a procedure for selecting firms to perform the work in areas experiencing high unemployment, thereby contributing to the economic health of the community in which the contractor is located. It has the added feature of encouraging the hiring of the disadvantaged persons. Eliminating this restrictive provision actually contributes to the more efficient and orderly process of contracting.

Under the Baybank amendment language, the scope of the program is severely limited. Out of a total contract expenditure in fiscal year 1973 by both civilian and defense procuring agencies of $45 billion, only $195.7 million in labor surplus area contracts were awarded. That is 0.4 percent. Several witnesses testifying before the Government Procurement Subcommittee of the Small Business Committee on this program during this past year agreed that, without the Maybank amendment restricting the program, labor surplus area procurement would surely expand. These witnesses are the people responsible for the operation of the current program, and thus their testimony is of real value.

In terms of cost of the operation of the program, it is very reasonable. In these same hearings, the Department of Labor estimated the Federal and administrative costs connected with the program are only about $1.5 million a year. Comparing this with the number of disadvantaged persons reported hired pursuant to the program, this would result in a placement expense of only $40 per person. This might be compared with the program costs under other job preparation and training programs which generally run from $1,000 to several thousand dollars per individual placed.

Although the labor surplus area procurement program would appear to be economically wise, the effect of the Maybank amendment prohibition brings what I believe to be the unintended result of making the contract procedures under the program more costly. While requiring that no price differential is to be paid, the procedure of splitting the purchase into two or more contract awards actually increases the time, work, and resulting expense to the procuring agencies. Instead of one contract to award, one contract performance to administer, and one contractor to pay, by

the device of splitting the procurement, there are two or more contracts to award, administer and close out. The additional man-hours required to take these additional measures naturally adds to the cost of administering the contracts.

In short, I do not believe that the prohibition of the payment of a price differential in the contracts concerned with economic dislocation is any longer relevant to the evil it was designed to avoid and is in fact highly detrimental to the labor surplus area procurement program. This would seem to be a particularly appropriate time to remove this obstacle from a program designed to contribute to the economic health of depressed communities and areas. If the economic prognosticators prove to be correct in their predictions, our economy is headed for difficult times with rising unemployment.

Certainly, at present, there are areas experiencing unemployment far above that reported for the Nation as a whole. While I hope the unemployment picture does not become worse, I feel that we must open the way to every form of suitable assistance. This labor surplus area program holds out promise for relief. It should not be fettered with an unnecessary limitation. I urge my colleagues to join with me in striking from the defense appropriation bill this limitation on the expenditure of public funds.

EXHIBIT 1

DESIGNATION OF UNEMPLOYMENT AREAS

AREAS OF SUBSTANTIAL UNEMPLOYMENT

A labor area in which the current and anticipated local labor supply substantially exceeds labor requirements. An area is placed in this category when:

(1) Unemployment in the area is equal to 6 percent or more of its work force, discounting seasonal or temporary factors, and

(2) It is anticipated that the rate of unemployment during the next 2 months will remain at 6 percent or more, discounting temporary or seasonal factors.

AREAS OF PERSISTENT UNEMPLOYMENT

A labor area, or a city of 250,000 or more population, or a county, when unemployment during the most recent calendar year has averaged 6 percent or more of the work force, and the rate of unemployment has:

(1) Averaged 6 percent or more and has been at least 50 percent above the national average for 3 of the preceding 4 calendar years, or

(2) Averaged 6 percent or more and has been at least 75 percent above the national average for 2 of the preceding 3 calendar years, or

(3) Averaged 6 percent or more and has been at least 100 percent above the national average for 1 of the preceding 2 calendar years.

SECTIONS OF CONCENTRATED UNEMPLOYMENT OR UNDEREMPLOYMENT

Sections of concentrated unemployment or underemployment include all places participating in the Department of Labor's "concentrated employment program," all "target areas" under the "model cities" program of the Department of Housing and Urban Development, all areas which were identified for Federal assistance to provide public service employment under section 6 of the Emergency Employment Act of 1971 (P.L. 92-54), and Indian reservations with a population of 4,000 or more.

Mr. McCLELLAN. Mr. President, I thank the Senator. I appreciate his consideration. Apparently it seems that this is primarily a matter of legislation. It may be that the Armed Services Committee should consider it, if the Senator introduces such a bill. We would certainly welcome his appearance before the Defense Appropriations Subcommittee next year when we are holding hearings so that we can make a record on it.

Mr. HATHAWAY. I thank the Senator from Arkansas very much.

Mr. NELSON. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 28, line 8 add, after "1975" the following: "provided further, that no part of the appropriation contained in this act shall be used for Full Scale Development of Project Sanguine."

Mr. NELSON. Mr. President, from the record of the testimony in both Houses, it is quite clear that there is no money in this bill for the purpose of full-scale development of Project Sanguine, the proposed Navy communications system.

However, since that is the intent of the committee and since it is agreed, by everyone, that no moneys of the $16,600,000 shall be spent for other than the continuance of the environmental studies to determine the environmental impact, if any, of the communication system, once it is deployed.

And that the balance of the moneys shall be spent only for the validation phase of Project Sanguine, that aspect of the project to test its practicability and its feasibility, and since that is agreed to by the Navy from its testimony and from the committee report, I would like to see this sentence added on page 28, so that it is written into the statute, that—

None of the $16,600,000 shall be spent for any other purpose than the purposes of the validation of the system and the environmental studies.

Mr. McCLELLAN. Mr. President. will the Senator from Wisconsin yield?

Mr. NELSON. I yield.

Mr. McCLELLAN. I have considered the Senator's amendment, and I have discussed it with the distinguished Senator from North Dakota (Mr. YOUNG), the ranking minority member on the Appropriations Committee and also on the subcommittee, and I see nothing wrong with the Senator's amendment. I have no objection to it. It is not the intent that this money be used for procurement. We are developing a system here. To use the term "full scale procurement," I do not think that would preclude the department from procuring a prototype or other equipment that might be needed. But I would agree with the Senator, I do not think it should be full scale procurement until the system has been researched, tested, and developed. If that is satisfactory to the Senator, I will accept the amendment.

Mr. NELSON. Fine. I used the phrase which the Navy uses "full scale development of Project Sanguine," which, by their definition, means deployment of the system for use.

Mr. McCLELLAN. I would not want them to do that. I am happy personally to accept the amendment.

Mr. YOUNG. Mr. President, I have no objection to the amendment. I think it is a good amendment.

Mr. NELSON. I thank both Senators from Arkansas and North Dakota.

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

The amendment was agreed to.

Mr. NELSON. Mr. President, I send to the desk another amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 28, lines 28 and 29, delete "$2,647,945,000" and substitute "$2,631,345,000."

Mr. NELSON. Mr. President, I will be very brief as to this amendment. It would, in fact, delete from the bill the $16,600,000 for the completion of the continuation of the validation phase and for the environmental study. I realize that the Appropriations Committee has acted on it and inserted it in the bill, and that, given the fact that we would have to discuss it a couple of days in order to get some attention around here, I am not——

The PRESIDING OFFICER. The Chair would advise the Senator from Wisconsin that the amendment as stated by the clerk is not properly identified. There are no lines 28 and 29 on the page the Senator refers to.

Mr. NELSON. Mr. President, I modify my amendment so that it will read:

On page 28, lines 6 and 7.

Strike "lines 28 and 29."

Mr. President, I am aware that it would not be possible to get the votes to strike this appropriation, but I just want to be sure that the record is clear on it, that we are not going beyond the validation phase.

Mr. President, I would simply ask for a voice vote on the amendment.

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

Those who favor the amendment will say "aye." Opposed "no."

The Chair is in doubt and calls for a division.

On a division, the amendment was rejected.

Mr. NELSON. Mr. President, I will just take a couple of more minutes.

Last year, when the authorization bill came from the Armed Services Committee, we had a dialog on the floor of the Senate in which this project was discussed in considerable detail, and it was understood at that time that these moneys would only be for the completion of the environmental studies and the validation phase of that communications system.

I exchanged letters with the Navy last year on the specific issue of the studies and the validation phase, and I received their assurances, in writing, that there would be no full-scale development and that once the validation phase was over and the environmental studies were over, if they then thought the system was a

necessary part of our communications system and our weapons system, they would then come to Congress and ask for appropriations for the full-scale deployment, at which time, of course, there would be hearings and debate in both Houses on the question of whether or not this communictions system is in fact a necessary and critical system to have as part of our defense system.

I ask unanimous consent that an exchange of letters I had in June of 1972 with the Navy, one by me to the Secretary of the Navy and one to me from the Assistant Secretary of the Navy, be printed at this point in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FINANCES,
Washington, D.C., June 6, 1972.

Hon. JOHN W. WARNER,
Secretary of the Navy,
The Pentagon.

DEAR MR. SECRETARY: Congress will soon be making the decision on the Navy's proposal that, in fiscal year 1973, Project Sanguine be advanced to the "Validation" phase and that some $12 million be appropriated for this purpose. In a continuing effort to evaluate the program, there have recently been a series of Naval briefings as well as a productive meeting between Naval scientists working on Project Sanguine and distinguished scientists who have asked probing questions concerning the technical feasibility of the system.

This letter is being written, prior to Congressional action, based upon my interpretation of the series of conference between myself, my staff, independent scientists, and Navy representatives over the past few months. It is for the purpose of reviewing the status of Project Sanguine and the FY 1973 proposals for it.

1. TECHNICAL FEASIBILITY

Scientists working on Project Sanguine are convinced that the practical feasibility of the communications system has been demonstrated. The Navy proposes, in FY 1973 to further test the practical aspects of the system during this test or development phase. Other eminent scientists, outside the program, express serious reservations concerning the technical feasibility of it.

Bearing importantly on this divergence of views is the need, raised both in the National Academy of Sciences report on Sanguine and by the distinguished scientists who have been critical of it, for a full-scale discussion in the national scientific community of the technical questions involved.

Sanguine obviously involves different theories and techniques of communication that have not had wide-spread, careful analysis by the scientific community. It is my understanding that the Navy agrees that the unclassified data respecting technical aspects of this system should be widely published in scientific journals so that it can be evaluated by experts in all of the scientific disciplines involved and the Navy agrees to make the unclassified data available.

In my opinion, the question of the practical feasibility of the system remains open until the scientific community has had ample opportunity to evaluate the data.

2. ENVIRONMENTAL IMPACT

In March, 1971, the Navy said, in its draft environmental impact statement on Sanguine, that it could build such a system compatible with the environment. Among those critical of this report were the environmental subcommittee of the Governor's Ad Hoc Committee on Sanguine in Wisconsin; the U.S. Army Corps of Engineers; and the U.S. Forest Service, which questioned the entire test procedure because of the lack of previous information on the test sites prior to their development.

In addition, preliminary results of tests, conducted by the Hazelton Laboratories of Virginia under contract with the Navy, indicated seed growth retardation, avoidance of electrical fields by aquatic life, mutagenisis of fruit flies (at a rate "too important to be neglected. . . ") and other potentially serious acute and chronic effects from Project Sanguine.

Recently, in April, 1972, the Navy filed a second environmental impact statement, which, based on pilot projects, concludes essentially that Sanguine will not have a substantial adverse effect on the environment. While their evaluation of this document is not yet completed, I am informed that the environmental subcommittee of the Governor's Ad Hoc Committee is critical of this statement for much the same reasons raised with the first statement. The subcommittee expects to issue a critique on this environmental statement on June 15, 1972.

Of course, environmental research on Project Sanguine is continuing. There are now studies being conducted at nine colleges or universities, some of which started as little as a month ago, and most of which will be completed in a year or so. Also, the Navy's FY 1973 proposed budget for Project Sanguine earmarks some $400,000 for continuing environmental study purposes.

Therefore, the question of the environmental impact remains unresolved for the time being.

I would like also to note that the Navy advises me that a final decision on the site for Project Sanguine has not been made. It is also the position of the Navy that continued testing at the existing site is essential to complete development and evaluation of Sanguine regardless of ultimate site location.

In summary, it is my understanding in my discussions with the Navy that the FY 1973 appropriations on which the Congress is asked to act involve only continuation of research and development ("Validation" phase) and do not include any funds for the Final Development and Deployment phases. I would appreciate being advised if my interpretations of these conferences do in fact represent a correct view of the status of Project Sanguine and the purpose of the funds requested for FY 1973.

Sincerely yours,

GAYLORD NELSON,
U.S. Senator.

NAVY'S RESPONSE TO SENATOR NELSON

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., June 9, 1972.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: In your letter of June 6, 1972 you requested Navy confirmation of your interpretation of recent events affecting the status of Sanguine and the purpose of the funds requested for FY73.

I am pleased to advise you that your understanding of the efforts planned for Sanguine in FY73 are correct. I have enclosed a copy of the letter recently sent to the Chairman of the Committees on Appropriations and Armed Services which also discussed the Navy's plans for Sanguine in FY73.

The technical feasibility of Sanguine has received considerable study and review for over ten years. This work has been supported by actual communications experiments with submerged submarines to test all aspects of the system.

As you correctly noted the Sanguine system involves concepts and theories that have not been extensively utilized in other systems. This is one of the reasons for the long and careful Navy research and development efforts since 1958. There are always some differing opinions on new scientific concepts. These can be best resolved by conducting actual experiments to test applicable theories while at the same time conducting scientific/technical discussions with all interested parties. The Navy has in the past and will continue in the future to encourage publication of unclassified technical material by the scientists working on the project. Considerable technical material was recently provided to Sanguine critics which should assist in their understanding and evaluation of Sanguine. The Navy will continue to cooperate in providing unclassified information regarding particular technical areas.

Several technical and professional societies will have sessions during the coming year specifically devoted to scientific papers on Sanguine. Several of the technical critics have indicated they will participate in these sessions which should provide a forum for meaningful technical exchange.

The Navy is not yet in a position to make a final assessment of the environmental impact of the construction and operation of an operational system. Environmental research is continuing and there has not been a decision on a final site or design. The recent Environmental Impact Statement (EIA) states there will be no adverse impact during the next four years of development. I must emphasize that this statement covers the remainder of Sanguine development only, and there is no intention that it be construed to be a statement of final impact, which as you know will be dependent upon results of this next phase as well as the exact location of the site. The present EIS does contain the current assessment of the potential impact from construction and operation of a Sanguine system. The final evaluation will be submitted in an updated EIS prior to requesting authorization for construction of an operational system.

The funds requested for Sanguine in FY 73 are for continuation of research and development as part of the Validation Phase of the major defense systems development and acquisition cycle. Approval of these funds, and the conduct of the Validation phase, do not constitute a commitment to full scale development or production of a Sanguine system. Develpment needs to proceed in order to insure that future decisions on full scale development are based on availability of all necessary factors, including environmental issues.

The FY73 efforts for Sanguine do involve contracting with industry for competitive preliminary development tasks and continued testing at the existing Wisconsin Test Facility. The operation of the test facility will continue as in the past with only the addition of buried cable tests to provide additional data on cost, environmental considerations and antenna radiation factors.

I believe the recent discussion and reports made available including the NAS/E report will do much to provide a basis for future consideration of the Sanguine program.

Sincerely,

ROBERT A. FROSCH,
Assistant Secretary of the Navy.

Mr. NELSON. Mr. President, a number of environmental studies are still underway and not completed. There have been eight environmental studies—on various environmental issues and problems—in separate contracts with various universities, and 15 remain uncompleted. I ask unanimous consent that a brief summary of the studies that have been completed

and those that are not completed be printed at this point in the RECORD.

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

ENVIRONMENTAL STUDIES

The following summarizes the eight environmental impact studies which have been completed:

Low frequency electromagnetic radiation and genetic aberrations.—Dr. Sidney Mittler, Northern Illinois University, September 15, 1972; 13 pp.

A strain of adult male Drospohila were exposed for 5 days to 75, 60, or 45 Hz, 10 v/m and 1 gauss and then mated to female Drosophila. The low frequency electromagnetic radiation did not induce any of the following genetic aberrations: sex-linked recessive lethals, trans-locations between II and III chromosomes, loss of the X or Y chromosomes, nondisjunction, and dominant lethals.

Pigeon and rat behavioral study.—Dr. M. J. Marr, Ga. Tech.

Pigeons and rats were the test specimens to determine whether electromagnetic fields of the type encountered in a Sanguine environment could influence behavior. The test subjects were trained to perform behavioral tasks to determine whether exposure to ELF fields affected operant behavior and whether these fields were perceived. The study began in September 1971 and was completed in December 1972. The final report is expected in March 1973.

Sunflower growth study.—Dr. G. M. Rosenthal, University of Chicago.

This study was performed in 1972 to determined whether growth retardation effects found in earlier studies were a result of exposure to ELF fields or whether the results was caused by other influences inherent in the test procedure. Tests were conducted in a greenhouse using ordinary greenhouse growing conditions. The study began in the Spring of 1972 and was completed in December 1972. The final report is expected in March 1973.

Impact of extremely low frequency electromagnetic fields on soil arthropods—ongoing studies at the Wisconsin Test Facility.—Dr. Bernard Greenberg, University of Illinois, January 25, 1973.

A population census of key soil arthropods living near the Sanguine antenna and in control plots 7 to 12 miles away was made during the summer of 1972. The data were compared to data from three previous years. The data show no effect on soil arthropods exposed to the Sanguine WTF.

A different class of organisms could have been chosen for study but arthropods were chosen for two reasons. First, community structure is more stable at the higher taxonomic level of arthropoda. Second, the taxa used in the study fit into defined ecological roles; cryptostigmata and collembola are primary consumers or prey while Mesotigmata and Prostigmata are secondary consumers or predators.

WTT animal oxygen consumption study.—Dr. Bernard Greenberg, University of Illinois.

Oxygen consumption tests were made on five species of animals living in the vicinity of the Sanguine Wisconsin Test Facility during the summer of 1972. Respiratory quotient is a key physiological function. The report is expected in March 1973.

WTF ecological survey.—This survey was conducted during the summer of 1971 at the Sanguine Wisconsin Test Facility to obtain quantitative descriptions of forest ecosystems adjacent to the Sanguine antenna right-of-way, quantitative descriptions of herbaceous ecosystems within the Sanguine right-of-way, and census of apical bud mortality in pine forests adjacent to the Sanguine antenna right-of-way. Comparisons with data from areas remote from the Sanguine antenna showed no significant differences in any of the above parameters.

Evaluation of the health of personnel working near Project Sanguine test facility from 1971 to 1972.—Naval Medical Research Unit No. 4, December 1972; 42 pp.

Base line "problem-oriented" medical data, laboratory and physiological parameters were established for 24 personnel at Project Sanguine Test Facility in 1972. Comparisons were made between 9 test subjects and a group of age-sex matched controls after the follow-up examination. No differences of significance were noted between Sanguine and Control subjects. No evolution of abnormalities attributable to ELF exposure occurred during the interval between examinations. The medical problems of both groups are discussed.

Effects of low frequency electrical current on various marine animals.—Naval Air Development Center, 21 June 1972; 17 pp.

Threshold responses (gross movement) of various sea animals at low alternating electrical currents have been investigated. Although variable with species, shape of frequency response curve for representative currents was quite similar with all animals.

The threshold levels determined in this study are levels where the organism immediately sense the current. Threshold levels ranged from 2 to 28 milliamperes per square centimeter depending on the species.

Question. Identify each of the 15 studies in progress or planned, indicating by whom, starting and ending date, cost, add brief description.

Answer. The 15 studies in progress or planned are:

Bean root tip chromosome study.—Dr. M. Miller, University of Rochester, 15 Sept. 1972–31 December 1973. $41,000.

Bean roots are being exposed to ELF electric and magnetic fields. Rate of root growth is being studied, the mitotic index is being determined, and the chromosomes are being studied to determine whether any aberrations occur. The study began in September 1971 and is expected to be completed in December 1973.

The bean *Vicia faba* is widely used in cytogenetic studies. The root tip cells are synchronized through at least the first cell replication. The cells in the dormant seed when given suitable germination conditions arrive at mitosis in 55 hours. Mitosis is the process by which a cell nucleus divides into two. A plant root grows by extending its tip which contains the mitotically active cells of the root.

Fish sensitivity and behavioral study.—Dr. J. McCleave, University of Maine, 1 December 1972–31 December 1973. $26,000.

The threshold levels at which fish Atlantic Salmon and American Eel perceive the ELF field are being determined. Behavior is being studied to determine whether fish are affected at field levels lower than those they can perceive. The study began in September 1971 and is expected to be completed in December 1973.

Chicken growth, development and behavior study.—Dr. W. Durfee, University of Rhode Island. 15 September 1972–31 December 1973. $39,000.

The chicken is being studied while exposed to ELF fields during incubation and up to sexual maturity. Embryonic development outside the body of the parent provides an opportunity to study early developmental responses. Growth, development, and behavior are being studied. The study began in September 1971 and is expected to be completed in December 1973.

Mold growth and development study.—Dr. E. Goodman, University of Wisconsin-Parkside. 15 September 1972–31 December 1973. $59,000.

Physiological processes of mold are being studied while exposed to ELF fields through many life cycles. Among the parameters being studied are the onset of mitosis as it progresses through its life cycle, protoplasmic streaming, and DNA replication. The study began in September 1971 and is expected to be completed in December 1973.

Slime mold was chosen for study because (1) its natural habitat is at ground level on decaying vegetation, (2) its normal life cycle has been extensively documented both morphologically and biochemically, (3) it undergoes a naturally synchronous mitosis at predictable intervals, and (4) it goes through many life cycles in a relatively short period of time.

Plant and soil microorganism metabolism study.—Dr. W. Gardner, University of Wisconsin-Madison. 15 September 1972–31 December 1973. $52,500.

Plant metabolism is being studied while exposed to ELF fields under controlled laboratory conditions. Among the parameters being measured are water uptake across root membranes and its ultimate influence upon photosynthesis, response of the stomates, and plant transpiration.

Metabolic activity in soil microoragnisms is also being studied under controlled laboratory conditions. Solute and water transport across cell membranes are being measured. Measurements are being made of transport constants, uptake velocities, and turnover times and rates for solutes such as sugars and amino acids.

These studies began in September 1971 and are expected to be completed in December 1973.

Biorhythm study.—Dr. F. Halberg, University of Minnesota. 15 September 1972–31 December 1973. $51,000.

This study is utilizing the biological rhythms of organisms exposed to ELF fields as an indicator of biological effect. The test specimens are the rat, mouse, flour beetle, and silk tree. Biorhythms being measured include body temperature, estrus cycle, susceptibility to drugs, and movement. The study began in September 1971 and is expected to be completed in December 1973.

Primate neurophysiological study.—Dr. R. Medici, UCLA. 15 September 1972–31 December 1973. $80,000.

This study involves the behavior and electroencephalographic (EEG) records of monkeys exposed to ELF fields. The test subjects EEG is recorded while performing a task which if performed correctly results in a food reward. This kind of test would detect subtle effects. The study began in September 1971 and is expected to be completed in December 1973.

WTF gull chick study.—Dr. William E. Southern, Northern Illinois University. $20,000 (Initial Proposed Fee).

It is proposed to study the orientation of gull chicks exposed to the ELF fields produced by the Sanguine antenna. Orientation is an important parameter in bird migration and orientation of gull chicks in relation to migration has been well documented. The estimated length of time to perform the study is one summer and it is proposed to perform the study during the summer of 1973.

WTF homing pigeon study.—Dr. Lewis C. Graue, Bowling Green State University. $12,000 (Initial Proposed Fee).

It is proposed to study the homing ability of pigeons exposed to the ELF fields produced by the Sanguine antenna. Homing ability is also a parameter involved in bird migration. This study is proposed to be performed during the summer of 1973.

WTF soil arthropod study.—Dr. Bernard Greenberg, University of Illinois. $15,000 (Estimated).

This study is to be continued each summer while WTF is operated. It is proposed to continue the study during the summer of 1973 of soil arthropods in the vicinity of the Sanguine antenna that was started in 1969. Results of field ecological studies become more statistically significant as the length

of time over which data collected is increased.

WTF oxygen consumption study.—Dr. Bernard Greenberg, University of Illinois. $10,000 (Estimated).

This study is to be continued each summer while WTF is operated.

It is proposed to continue the oxygen consumption study during the summer of 1973 which was started in 1972.

Human study.—Dr. D. E. Beischer, Naval Aerospace Medical Research Laboratory. April 1972–December 1974, $200,000.

A study is being performed using man as the test subject. Both psychological and physiological indicators are being studied in relation to exposure to ELF electric and magnetic fields. Expect completion by the end of 1974.

Evaluation of the health of personnel working near the facility, Naval Medical Research Unit.—Dr. Peter Krumpe, Navy Bureau of Medicine, $20,000.

The base line "problem-oriented" medical data collection started in 1971 will continue throughout the life of the WTF. Reports are expected in January of each year.

Animal study.—Dr. McKinney, Naval Air Development Center. April 1971–July 1974. $60,000.

Blood pressure, EKG, and certain enzyme systems are being studied in the beagle dog in relation to ELF electric field exposure. Weight gain studies on young rats exposed to ELF electric fields are also being performed. Hatchability of frog eggs and viability and metamorphosis of tadpoles are also being studied. These studies began in 1971 and are expected to be completed around July 1974.

U.S. Forest Service study.—$25,000.

This study is to be continued each summer while WTF is operated. The U.S. Forest Service is collecting baseline data on populations of various species in the vicinity of the Wisconsin Test Facility. These data can be used to detect future changes in population trends. The species included in this study are deer, small mammals, grouse, and eagle-osprey. First annual report was received. No conclusions can be drawn at this time. Expect to continue for several years with reports due in January of each year.

Question. Do you anticipate that any more environmental duties will be required beyond the 25 in progress or planned?

Answer. Two environmentally-related studies are required in addition to the fifteen studies now in progress or planned as continuations of existing programs. These are the Environmental Site Survey and the Ecological Data Base for the Texas and Michigan candidate areas.

The environmental site survey is necessary to catalog the total environmental characteristics of a candidate deployment area for Sanguine. The natural features and the social-economic features are included in this descriptive catalog. Both these terms are used in the broad sense so that all important and sensitive parameters are included in the study. The results of the inventory will be used initially to design a computerized process by which the data can be stored and retrieved. Following this, programs will be developed to depict conceptually the layout of candidate Sanguine Systems to minimize environmental impact commensurate with system design requirements. By a process of iterative studies, with appropriate local inputs, a final deployment scheme for Sanguine will be developed. This work will become the framework for the environmental impact statement for Sanguine System construction.

The Ecological data base is viewed as a long-term study which will provide a method for the continual assessment of environmental impact of Sanguine System construction and operations. It should be recalled that the Navy is in a position at the present time of trying to prove a negative hypothesis—that Sanguine electromagnetic fields *will not* produce adverse environmental reactions. This is not possible in the scientific sense, a point on which the Navy and its environmental critics agree. This being the case, the present research program has as its ultimate objective the collection of sufficient factual information so that a rational assessment of expected impact can be made. If this can be achieved, then it should be possible to show that an acceptably low risk would be taken in proceeding with the construction of the system.

The ecological data base initially will provide the essential indicators of the general health and balance of ecological communities in the candidate area prior to construction. Studies are planned for initiation during late FY 73 or early FY 74, and will be designed according to inputs from local experts, among others. These studies will be continued after construction (assuming that to be the case). This permits a continuing assessment of the environmental impact of Sanguine operations, if any, to be made and documented. Since it is intended that system construction will be a phased activity, appropriate action could be taken as necessary to avoid any undesirable environmental effects attributable to the system.

Question. Your descriptive summary shows procurement costs for Stage I only, totaling [deleted] million. Why don't you also show the Stage II costs of [deleted] million and Stage III costs of [deleted] million? These make the total program cost add up to $1 billion.

Answer. The costs shown are cumulative therefore the total investment costs for the entire system is [deleted]. At the present time Navy has planned a Stage I system only for inclusion in the Five Year Defense Plan (FYDP). A decision to budget for a Stage II or III system has not, and need not, be made at this time. Since Sanguine can be built in a modular fashion these decisions can be made at a future time after the initial production decision and prior to the completion of Stage I.

Question. The second largest item in your request is $3.1 million for test and evaluation also to be performed under contract. For what and when will this amount be used?

Answer. This will be used for the design and acquisition of long lead time test equipment to simulate the effects of Electro-magnetic Pulse (EMP) that results from a nuclear burst. A portion of funds will also be used for planning for blast and shock test of the transmitter facilities utilizing the High Explosive Simulation Test (HEST) techniques.

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

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 8, line 11, after the word "yards" strike the colon and insert instead the following: "and not less than $359,919,000 shall be available for the performance of such work in private shipyards:".

On page 8, line 9, strike the word "more" and insert in lieu thereof the word "less".

Mr. McINTYRE. Mr. President, the Senator from Maine (Mr. HATHAWAY) is a cosponsor of this amendment.

The amendment would remove the $851,672,000 ceiling on the amount which can be spent for the repair, overhaul and alteration of naval vessels in public shipyards.

The House of Representatives has passed such a statutory requirement—setting that limit, or ceiling, at $851 million for fiscal 1974—and its language survived in committee in the Senate.

Because the Navy repair and alteration program involves such a complex of variables—including the question of when repair or alteration is necessary, what shipyards might have the immediate manpower, expertise and facilities to carry out the work, and whether such work can or should be mandated to private or public shipyard—I believe imposing a dollar ceiling would be the wrong thing to do, and given the late date in the fiscal year—we are almost 6 months into fiscal 1974—it is certainly the wrong time to do it.

The issue is what such an arbitrary spending ceiling—and the resulting administrative snarl—would do to efficiency and economy and, indeed, to the responsiveness of our defense capability.

Mr. President, the amendment I am proposing, instead of setting a ceiling, or limitation, on the amount of alteration and repair money that could be spent in public yards, would, in effect, take the Navy at its word and place a floor under what the Navy will be able to spend in public shipyards and what the Navy will have to spend in private shipyards.

It would take the figures the Navy gave last summer to the House Appropriations Committee and would say that the Navy shall have available to spend not less than $851,672,000 in the public shipyards for repair and alteration, and not less than $359,919,000 in the private shipyards in this country.

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

Mr. McINTYRE. I yield.

Mr. PASTORE. As I understand the figure that the Senator has allocated to private shipyards, it comes to 29.7 percentagewise. Is that correct?

Mr. McINTYRE. The Senator is correct.

Mr. PASTORE. Mr. President, I think this actually reduces to dollars what was more or less intended as percentages in the House language. I believe we should take it to conference, and I so recommend to the manager of the bill.

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

The yeas and nays were not ordered.

Mr. MANSFIELD. 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. PASTORE. 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 New Hampshire.

Mr. HOLLINGS. Mr. President, I rise to support the amendment of my friend from New Hampshire, Senator McIN-

TYRE, which would delete from the bill a limitation on the amount of alteration, overhaul, and repair work which can be done at naval shipyards and substitute a floor on expenditures at both public and private yards which closely approximate what the Navy anticipates to be the amounts expended during this fiscal year at private and public yards.

In practical terms the language presently in the bill would result in the loss of almost 3,500 jobs at eight of our naval yards while the substitute amendment would hold employment at its present level. I would ask unanimous consent to introduce at this point in the RECORD a table showing the changes in personnel which would be required by the bill's language. How can we expect the Navy to continue to do a good job when we continually impose restrictions on their operations and reductions in their personnel?

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

Naval shipyard	Required EO fiscal year 1974 current sked	Required EO fiscal year 1974 70/30 split
Portsmouth	5,900	5,500
Philadelphia	7,500	6,600
Norfolk	10,300	9,650
Charleston	6,900	6,200
Puget Sound	9,200	8,850
Mare Island	7,700	7,700
Long Beach	7,300	6,750
Pearl Harbor	5,200	5,200
Total	59,900	56,450

Mr. HOLLINGS. Mr. President, a comparison of the personnel levels at private and public shipyards quickly indicates that the navy yards have been losing personnel while the private yards have been gaining. For example, in 1968 the Navy shipyards had more than 50 percent of the employees than they do now. The Kiser Engineers Study recommended a minimum shipyard employee complex of 72,000 for optimum efficiency at 10 yards. We are now losing two yards and looking at an employee level of under 60,000. If this language remains in the bill, personnel would drop by another 3,500.

Mr. President, the Navy has played fair with the private yards and the private sector has received a significant portion of the total work to be allocated. For example, figures released by Statistical Quarterly, Shipbuilders Council of America, show that the private share of alteration, repair, and conversion escalated from 31.7 percent and $1,144,989 in 1971 to 36.7 percent and $1,594,000 in 1973. Over the past 20 years, the private share has escalated from 7 to 36.7 percent. In addition, the private yards handle all new construction.

Twenty years ago, the Navy shipyards handled 70 percent of new construction. Today, they handle none. Twenty years ago, the Navy handled 100 percent of all conversions. Today, they handle only 33 percent. And in repair and alterations the private participation has grown by 20 percent over the past 20 years. On balance, the private yards handle 86 percent of the Nation's business.

As a member of the Commerce Committee, I have worked actively to encourage private commercial shipping, including the construction of new merchant vessels. At the same time, we must recognize how vitally important it is to our national security that the Navy retain its capability to repair and maintain its fleet. The facts that I have previously cited indicate that the Navy has played fair with the private yards and is trying its best to assign to the private yards as much work as feasible. The McIntyre amendment would continue this balance and this trend. On the other hand, it would be unfair for us to restrict the Navy and tie its own hands by legislating, as the bill presently does, the maximum volume they can handle. The Navy has stated that it must have flexibility in this area, and I think it is incumbent upon us to accord them this flexibility.

Accordingly, I urge my colleagues to support the McIntyre amendment.

The amendment was agreed to.

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

Mr. McINTYRE. I yield.

Mr. MANSFIELD. Mr. President, I should like the RECORD to note that the vote was unanimous for the amendment.

Mr. PASTORE. That is right.

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

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 27, lines 20 and 21, strike out "$1,890,908,000" and insert in lieu thereof "$1,915,908,000."

Mr. YOUNG. Mr. President, I am offering this amendment for the distinguished Senators from Alabama (Mr. ALLEN and Mr. SPARKMAN) and others who may wish their names to be added as cosponsors.

Mr. President, the amendment would add $25 million for the site Defense program. This is for the Minuteman.

We need to maintain a timely and credible hedge against the possible abrogation of the Antiballistic Missile Treaty, the Interim Agreement on offensive nuclear weapons or, of even greater imporance, the failure to reach a final agreement on offensive weapons in the talks which are continuing between the United States and the Soviet Union.

To this end, the Congress should provide for the continued research and development of technology which is so vital to our ability to protect ourselves against threats and pressures—to say nothing of actual attacks—by an enemy. I have reviewed the program and decided that we should restore the $25 million cut we imposed on this program in the committee.

Mr. President, this is a new type defense for the Minutemen and we should do the necessary R. & D. If for any reason the U.S.S.R. should disregard the defensive weapons agreement or for any other reason initiate actions which would be a threat to the survival of our Minutemen, the technology would be accomplished and production of this system could be commenced to meet the threat.

It is for these reasons that I offer this amendment.

Mr. McCLELLAN. Mr. President, I have discussed the amendment with the parties interested. There is a problem. I am going to take the amendment to conference and try to work it out. I cannot guarantee the outcome, but I am willing to take it to conference.

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

The amendent was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McCLELLAN. Mr. President, I understand a Senator who is a member of the committee has an amendment. I do not wish to rush the bill through.

Mr. YOUNG. 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. MANSFIELD. 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. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment just adopted unanimously: Senators COTTON, HOLLINGS, SCHWEIKER, MAGNUSON, MUSKIE, HATHAWAY, FONG, HUGH SCOTT, JACKSON, and CRANSTON.

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

Mr. COTTON. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill add the following new section:

SEC. —. None of the funds contained in this act shall be used to furnish petroleum products to Southeast Asia.

Mr. COTTON. Mr. President, in today's New York Times, I find an article which has caused me to offer this amendment. The article indicates, and the Pentagon apparently has confirmed it, that the Department of Defense, out of its total oil reserves, is currently providing 22,000 barrels of petroleum daily to South Vietnam and 1,500 barrels daily to Cambodia, for a total of 23,500 barrels, which is described as "considerably less than two-tenths of 1 percent of current U.S. domestic oil demand."

The article states:

The Defense Department acknowledged that these fuel needs would be met indirectly out of civilian supplies of fuel in the United States, as the war reserves are eventually to be replaced with fuel commandeered from the domestic stocks.

I must say that my information is based purely and simply on this article and the statement of the article written

by John W. Finney is that the Department of Defense made the statement.

This means that eventually we must make up to the Department of Defense this oil that is being furnished to Southeast Asia. In the meantime, and now I am drawing upon my imagination, bolstered a bit by past experience and observation, much of that oil is likely to be bombed out by the North Vietnamese.

I am one of those Senators who long supported the President as he slowly, gradually, painfully, and conscientiously, I believe, dragged us out of Southeast Asia and brought our American personnel home. I did so because we were so committed with one-half million men over there. We were so heavily committed that I felt we could not abruptly impede the careful effort to extricate ourselves. But it would seem obvious that we are not going to be able to continue—by money and by oil, by supplies and by ammunition—to bolster them up. Certainly the South Vietnamese can fight and I guess they do fight. But the Cambodians are not——

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

Mr. COTTON. I yield.

Mr. MANSFIELD. I think the figures announced by the Senator are correct: 22,000 barrels a day to South Vietnam and 1,500 barrels a day to Cambodia. No mention is made of Laos, but certainly they are getting some oil, too. I understand, if my recollection is correct, that this 23,550 barrels of petroleum amounts to 1 million gallons.

Furthermore, it is my understanding that South Vietnam, in its relationship with the Arab countries, has not been cut off, but after we quit supplying them out of our stocks, and the military taking care of them 100 percent, South Vietnam can expect to buy oil from the Middle East, but that we will pay for that oil, too.

So I think the Senator has raised a very valid point. There is still too much American participation in Indochina in the form of civilians and otherwise, and hundreds of millions of dollars, very likely billions of dollars, still being spent there, when the war was supposedly concluded the early part of this year.

Mr. COTTON. I thank the distinguished Senator.

Mr. President, I have just been handed this item from the news ticker tape:

> Commerce Secretary Frederick Dent today moved to curb rising exports of petroleum by requiring exporters—starting tomorrow—to get licenses to ship oil and other petroleum products out of the country.

Further quoting Secretary Dent:

> Said exports of energy-related products averaged 43,300 barrels per day during the first ten months of this year. This was only 0.3 percent of the estimated domestic demand of 17 million barrels a day and 0.8 percent of the amount of petroleum products the United States imported during that period.
>
> However, other government statistics showed that petroleum exports rose sharply in November, and Commerce Department officials said that, because exporters could get higher prices overseas, exports probably would continue to rise unless the government curbed them.
>
> One Commerce Department official said the average daily exports of 43,300 barrels per day in the first 10 months of 1973 did not include oil made available to South Vietnam through U.S. military authorities. This oil, taken from U.S. military stocks, have been estimated to range as high as 1 million barrels per day.

So that is the situation, Mr. President. We are not going to save Southeast Asia by oil. We are not going to save them unless they can save themselves, in the long run.

In New England we are facing perhaps the greatest hardship, as great as any section of the country and greater than most sections of the country, and where we are now further restricted to 15 percent less fuel oil than we had last year.

I do not know how any Senator from the States in New England or from Minnesota or from the Northern border States with Canada, the cold-weather States of this country facing the coming winter, with no prospect, no real, assured prospect, despite all the optimistic comments that have been made, of obtaining more imports, could sit here, in justice to the people that we represent, and not do something to check that flow of precious oil that we need so badly.

This Senator had hoped that when we got the men home from Southeast Asia we could get clean out of that situation. We cannot—this country cannot—continue forever to bear the burden or continue the hopeless task of maintaining the defense of people who, in most cases, seem unable to defend themselves. They have our sympathy and they have our cooperation, but we cannot drain the lifeblood of this country, even though apparently we have gotten out of the Asian war. If we are going to do this sort of thing in this crisis, the next step you will hear is that we want to send some American troops back to help them. It will come as surely as night follows day. We have to draw the line somewhere and get out of it clean.

I speak as a Senator who steadfastly supported our effort throughout those long, weary years when the President of the United States, and I honor him for it, was trying to extricate us, as he expressed it, with honor. But there is a time when we owe something to our own people, and I offer this amendment conscientiously because I do not think we are going to do any good, in the long run, by sending oil over there, to be destroyed by the enemy.

I am not doing it selfishly for the people I represent. I think I do it conscientiously as a national policy. But I will add, Mr. President—and this will terminate my remarks—that I do not propose to see my people suffer from the cold in New England and see this oil going out of the country and know, in addition to that, that the Pentagon, without our knowledge, is expecting us to make up, from already scarce domestic supplies, this draining of such oil as they furnish to these governments, from the military reserves controlled for military defense purposes.

Therefore, I hope this amendment will be adopted, and 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 New Hampshire. 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 Louisiana (Mr. JOHNSTON) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. MCCLURE) is absent on official business.

The result was announced—yeas 60, nays 33, as follows:

[No. 579 Leg.]

YEAS—60

Abourezk	Eastland	Nelson
Aiken	Ervin	Packwood
Allen	Fulbright	Pastore
Bayh	Gravel	Pearson
Beall	Hartke	Pell
Bible	Haskell	Proxmire
Biden	Hatfield	Randolph
Brooke	Hathaway	Ribicoff
Burdick	Hughes	Roth
Byrd, Harry F., Jr.	Humphrey	Schweiker
Byrd, Robert C.	Kennedy	Scott, William L.
Cannon	Magnuson	Sparkman
Case	Mansfield	Stafford
Clark	Mathias	Stevenson
Cook	McClellan	Talmadge
Cotton	McGovern	Tunney
Cranston	McIntyre	Weicker
Dole	Mondale	Williams
Domenici	Montoya	Young
Eagleton	Moss	
	Muskie	

NAYS—33

Baker	Goldwater	Long
Bartlett	Griffin	McGee
Bellmon	Gurney	Metcalf
Bentsen	Hansen	Nunn
Brock	Hart	Percy
Buckley	Helms	Scott, Hugh
Chiles	Hollings	Stennis
Curtis	Hruska	Stevens
Dominick	Huddleston	Taft
Fannin	Jackson	Thurmond
Fong	Javits	Tower

NOT VOTING—7

Bennett	Johnston	Saxbe
Church	McClure	Symington
Inouye		

So Mr. COTTON'S amendment was agreed to.

Mr. COTTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. MCCLELLAN. Mr. President, I would like to ascertain, while we have this splendid attendance, how many more amendments we may expect this evening. I know of one; the Senator from Wisconsin (Mr. PROXMIRE) has one. I know of no other at the moment.

I am just trying to ascertain so that if we can dispose of this amendment quickly, I think we can have a vote on

passage, unless there are other amendments I do not know of.

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

Mr. McCLELLAN. I yield.

Mr. JAVITS. Mr. President, I would like to comment on an item included in the Senate-passed defense procurement bill relating to funding for the A–10 close air support plane, produced by Fairchild Industries.

The House-passed defense appropriations bill included $107.4 million for research and development for six airplanes—a cut of $5 million from the original administration request of $112.4 million for 10 airplanes. Senate committee action further reduced the appropriation for this plane to $97 million. The aggregate cuts in this program represent a most serious reverse to efforts to improve our system of defense procurement. Also, it has serious implications for the expertise of the aerospace industry in New York.

During the debate on the authorization for this airplane, September 21, 1973, I supported this program because it represented an inexpensive and extremely effective solution to the problem of close air support and, most importantly, I supported the program because of the philosophy which it represented of "fly before you buy" and "design to price." For years, many in Congress have sharply criticized the Department of Defense for designing needlessly sophisticated and unnecessarily expensive weapons systems. In my judgment, many of those systems that we are asked to approve are still far too costly and do not improve our national security to a compensable extent.

However, the A–10 close ground support aircraft program is an example of a prudent and rational design approach. The Air Force A–10 is the first aircraft ever developed specifically to support and to save the lives of our soldiers on the ground. The A–10 was designed to price and it is still within that price. It has been through fly-before-buy and a competitive prototype fly off. The contractor and the Air Force have met or exceeded all requirements for this aircraft.

Furthermore, Deputy Secretary of Defense Clements has stated in a letter to Senator MATHIAS dated November 17, 1973:

The Arab-Israeli conflict has confirmed the need for an aircraft with the tank killing capability designed into the A–10. I believe this fact will be even more evident after analysis of the major Arab-Israeli engagements. The A–10 with its 30mm cannon potentially represents a formidable and much needed addition to our fire support weapons.

I would like to point out that this system has been designed for maximum survivability primarily against the effects of conventional antiaircraft guns. The A–10, like all tactical aircraft, is not designed to sustain a direct hit by a SAM. However, the design features, which include armor plating, system redundancies, and reduced vulnerable area, should also increase its survival capability against SAMs. We are initiating a new study of A–10 vulnerability to a variety of new threats. This will help us in our final determination of the role for this new capability in our force structure.

Finally, Mr. President, there is the question of the impact of cutbacks of the A–10 program on Suffolk County, Long Island, N.Y., where Fairchild Industries will produce the A–10. In past years, while the Nation has enjoyed a period of prosperity, the aerospace industry has been depressed with an inordinately high impact on those regions, such as Suffolk County, which rely heavily on the aerospace industry for jobs. This cut will certainly result in schedule slippage leading to inevitable increases in program costs; possible layoffs on Long Island; and a delay in the overall Air Force program to modernize its air capability. This threat to the established aerospace technology expertise represented on Long Island deserves consideration for its wide ranging impact.

Mr. President, I oppose these cutbacks in this urgently needed and cost-effective program, and I urge the Senate conferees to uphold the House version providing $107.4 million for the A–10 program.

ST. ALBANS NAVAL HOSPITAL

Mr. President, on another matter, I would like to commend the committee for retaining the House language providing for the continuation of the St. Albans Naval Hospital in Queens, N.Y. This hospital serves a great many people entitled to service and it is vital that it remain open.

The PRESIDING OFFICER. The Senate will be in order.

Mr. CHILES. Mr. President, will the chairman yield?

Mr. McCLELLAN. I yield.

Mr. CHILES. I am not sure that I shall have an amendment, but I think I would like to look at the bill.

It seems to me it would be pretty foolish to send any money to Southeast Asia if we are not going to allow the tanks to run or the planes to fly, or allow oil or grease for the guns. It seems to me that we would be foolish to send any other dollars over there.

Mr. McCLELLAN. As the Senator knows, this amendment will go to conference, and I am persuaded we are going to have a great problem with it there. [Laughter.]

I hope we can take the bill as it is, with this next amendment, and go to conference and move along.

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

Mr. CHILES. I yield.

Mr. COTTON. I want to reassure the Senator from Florida that the purpose of offering the amendment was to preclude the sending of oil to Southeast Asia and the use of money for that purpose from this particular bill. It does not preclude the furnishing of money for oil under any other act, nor does it preclude their buying oil from some other country that might be asked to send it. Obviously, it covers the Government and the governments of the two countries that have been mentioned. It does not have anything to do with the furnishing of oil to our military bases and forces in that area. It simply prevents the Pentagon from doing this as they have been doing it without our knowledge.

Mr. PROXMIRE. Mr. President, I send to the desk an amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment, as follows:

On page 52, between lines 18 and 19, insert the following:

Sec. 741. (a) During the last quarter of the fiscal year 1974, no funds appropriated by this Act shall be used for the pay, compensation, or allowances of commissioned officer personnel on active duty in the Armed Forces (excluding Reserve officers on active duty training or Reserve officers and Retired officers ordered to active duty for periods of thirty days or less) in excess of the following numbers in each grade:

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

Mr. GOLDWATER. I object.

Mr. PROXMIRE. A copy of the amendment was placed on the desk of every Senator, so that he might read it. However, the clerk may continue to read.

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The legislative clerk read the remainder of the amendment, as follows:

Ranks	Army	Navy	Marine Corps	Air Force
O–10: General or admiral	13	10	2	14
O–9: Lieutenant general or vice admiral	47	44	8	39
O–8: Major general or rear admiral	174	104	24	141
O–7: Brigadier general or rear admiral	232	145	33	196
O–6: Colonel or captain of the Navy	5,080	4,000	680	6,000
O–5: Lieutenant colonel or commander	11,450	8,000	1,505	13,965
O–4: Major or lieutenant commander	17,580	14,800	2,884	21,600

(b) Vacancies within the allowances prescribed by subsection (a) of this section for any grade may be assigned to any lower grade or grades.

Renumber Sections 741 through 744 as Sections 742 through 745, respectively.

Mr. PROXMIRE. Mr. President, the amendment restores what the House Committee on Appropriations and the House put in the bill. The Senate Committee on Appropriations struck it out. The purpose of the provisions that the House placed in the bill was to limit grade-creep, to limit the enormous increase we have had in the number of high ranking officers.

I might say in explanation that this is one of the ways in which we controlled the number of top officers in the military during most of the 1950's. It worked at that time. Since then, we have had an explosion of top officers which has been extremely costly to the Government.

We have a military crisis facing this Nation. It is not a crisis of nuclear weapons. It is a question of bureaucratic

strangulation. We are well along the road to a second-rate conventional force structure, incapable of reacting to emergencies, inefficient in the field, and dangerously low in capability.

The threat comes from within. The bureaucracy is growing while the combat force dwindles. Fewer weapons, fewer men in combat positions, more supervisors, more command echelons, review boards, analysis groups, staffing elements, headquarters—these constitute the bureaucratic quagmire now strangling our Armed Forces.

It will not be many years before the Air Force has one plane, the Navy sails one ship, and the Army rolls a single tank. Am I exaggerating? Let the Senate be the judge. Listen to what the Secretary of Defense says:

> Nobody really pays attention to this.

Referring to the growth of the bureaucracy and support establishment, he said:

> Because it is so much more fun to argue about Trident and the F-14. If the trend continues, we will have a military budget that is devoted exclusively to retirement pay and the maintenance of rear-echelon support structure—with no combat forces at all.

He is absolutely right. That is exactly where we are headed. Every year we talk about the problem. The reports we issue cite the alarming facts. But no action is taken. What does it take to get us going on this problem?

Adm. Hyman G. Rickover is the father of the nuclear navy. He is one of the most honest and hard working officers ever in the service of our country. There is not a man in the Senate that does not respect his opinion. And we know that his opinions, be they critical about Congress or the military, are motivated by unquestionable loyalty. So what does this man have to say about our present military structure?

Before the House Appropriations Committee Admiral Rickover said, and I quote:

> There is a sickness in the Defense Department which has been going on for many years.

He went on to document what has caused this sickness. He mentioned the professional problem solvers, high ranking officers with large staffs that add bureaucracy to complex problems but no experience. He has said that:

> At each level of the bureaucracy, people try to minimize the risk of displeasing higher administrative authorities by calling for masses of information before they concur with the release of funds.

He castigated the nontechnical bureaucracy.

Then he testified that we are greatly overstaffed in headquarters. Let me cite his words:

> From fiscal year 1964, the 1st pre-Vietnam year, to fiscal year 1973 there has been an 11 percent decrease in military personnel. Despite this reduction in total personnel, the number of flag officers in the military services, for example, has increased by 44, the number of senior officers such as colonels, lieutenant colonels, and in the Navy, captains and commanders has increased by 5,037. This committee has estimated that the total increase in grade level, or grade-creep cost about $1.3 billion in fiscal year 1973.

And as Admiral Rickover pointed out, much of the strength in the higher officer grades is concentrated in support roles—not combat but support.

Now one might say we have all heard this before and it is true. But what can be done? Are there any concrete recommendations by responsible authorities. Fortunately, Admiral Rickover has provided a straightforward approach. He has recommended that:

> Congress should refuse to appropriate any funds for the military until the Department of Defense has reduced by at least half the number of management echelons between the technical or operational level, where major defense projects are conceived and carried out, and the Secretary's staff, where they must be approved.

He continued:

> I would also reduce over a period of 5 years the number of flag and senior officers, by 50 percent from what they are now.

Mind you, Mr. President, I am not doing this. This is what the House did, to put a ceiling on the level we have now so that it does not get worse.

Admiral Rickover continued by saying:

> If you would do that we would have a far more efficient military organization.

Let me repeat that last sentence—

> If you would do that we would have a far more efficient military organization.

So why are we not doing just that? A 10-percent reduction in flag and general rank officers would not be excessive. Let us get down to that lean-mean military that is essential in times of economic stress. It seems to me that if we get down to that, we would have a far more effective and efficient operation.

What my amendment does is to recognize what was done in the 1950's.

One of the ways Congress can reassert its authority in this area is to establish officer grade limitations. Congress has the authority to determine how many four- and three-star generals there should be or the number of admirals. In the 1950's we exercised that authority. Language used to be put into the defense bill that established ceilings for officers in the ranks of major/lieutenant commander and above. I propose that we do exactly the same now—in this bill.

My amendment would establish limits on all ranks of field grade, O-4, and above. At present there are 38 generals and admirals. Under my proposal there would be a ceiling of 38. No reduction. There are 142 lieutenant generals and vice admirals. The amendment would call for a ceiling at 139. There are 456 major generals and rear admirals compared to 443 under my amendment. It would be very close to our present level, somewhat below.

And finally there are 627 brigadier generals and rear admirals as compared to the ceiling of 606 under the new proposal. Thus there would be only very minor reductions. Much less than recommended by Admiral Rickover—far less. This has been accepted by the House. It was in the bill as it came before us and it was taken out by the Appropriations Committee.

Therefore, the acceptance of my amendment would allow identical provisions to go to conference and be accepted without compromise.

Now let us take a look at the facts involved. Just how many officers do we have today compared to the total military force? Are there fewer now than in 1945 or more?

Much has been made of the statistics that there were 20 four- or five-star generals and admirals at the height of World War II with a total force of 12.1 million while there are 39 now with a force of 2.2 million. More generals and admirals with six times fewer men. These facts are significant but they do not tell the whole story. The best measure of grade creep comes when comparing the ratio of officers per troops.

When looked at this way the full meaning of Admiral Rickover's warning becomes clear. During World War II there was 1 four- or five-star officer for every 600,000 troops. During the Korean war it was 1 for every 145,000 troops. Now there is 1 for every 20,000. Where will it stop? Plot that on a curve and there will soon be one four- or five-star general for every one trooper. Perhaps by the year 2015. That is the current progression if you follow it on out.

In other words there are 10 times more four- and five-star officers per troops now than in World War II. Ten times more.

There are seven times more lieutenant generals and vice admirals per ratio of troops now than in 1945. Back then these three-star officers were 1 in 120,000. Now they are 1 in 15,500.

Only in the category of major generals, brigadier generals, and rear admirals is there any indication of a decline in real numbers or ratios. This slight dip in one category, however, is more than made up for by the swing upward in the number of colonels and Navy captains. From 15,000 in 1945 they have climbed to 16,500 in 1972. During the Second World War there was one colonel or Navy captain for every 808 men. In 1972 there was 1 out of every 143, and increase of about six times by constant ratio.

Looking at all officers above the rank of colonel/captain the story remains dismal. Nor is there any significant improvement in sight.

Mr. President, I ask unanimous consent that the appropriate tables showing numbers of officers and the corresponding ratios by year be printed in the RECORD along with the grade limitation structure recommended by this amendment and the House Appropriations Committee.

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

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL ON ACTIVE DUTY BY GRADE IN WHICH SERVING, JUNE 30, 1946

	Total, Department of Defense	Army and Air Force: Total, War Department	Army and Air Force: Army commands	Army and Air Force: Air Force commands	Navy (excluding Coast Guard)	Marine Corps
Total	12,123,455	8,267,958	5,985,099	2,282,259	3,380,817	474,680
Officers, total	1,260,109	891,663	510,209	381,454	331,379	37,067
General of the Army—Fleet admiral	7	4			3	
General—Admiral	31	13			17	1
Lieutenant general—Vice admiral	101	50	1,221	298	49	2
Major general / Brigadier general } Rear admiral	1,929	392 / 1,060			[1] 401	28 / 48
Colonel—Captain	14,989	10,721	8,145	2,576	3,877	391
Lieutenant colonel—Commander	36,967	29,077	21,852	7,225	6,861	1,029
Major—Lieutenant commander	91,602	70,086	46,686	23,400	19,356	2,160
Captain—Lieutenant	300,610	197,591	125,885	71,706	96,784	6,235
1st lieutenant—Lieutenant (junior grade)	436,792	328,245	193,328	134,917	94,278	14,269
2d lieutenant—Ensign	294,121	198,164	96,229	101,935	86,316	9,641
Chief or comm. warrant / Warrant junior grade or warrant / Flight officers	82,960	56,260	16,863	39,397	23,437	3,263
Enlisted, total	10,795,775	7,374,710	5,743,905	1,990,805	2,988,207	432,858
E-7 [2]	248,520	112,307	70,845	41,462	124,310	11,903
E-6 [2]	533,084	215,396	110,073	105,323	300,315	17,383
E-5 [2]	1,089,117	611,859	363,468	248,391	449,426	27,832
E-4 [2]	1,734,787	1,051,275	693,410	357,865	633,799	49,713
E-3 [2]	2,388,387	1,541,699	1,090,107	451,682	757,809	88,879
E-2 [2]	2,910,031	2,255,620	1,832,586	423,034	500,225	154,186
E-1 [2]	1,891,849	1,586,554	1,313,506	273,048	222,323	82,972
Officer candidates, total	67,571	1,585	1,585		61,231	4,755
Cadets USMA	1,585	1,585	1,585			
Navy officer candidates	61,231				61,231	
Marine Corps officer candidates	4,755					4,755

[1] Includes 140 commodores.

[2] Grade designations established by "Career Compensation Act of 1949." Includes 16,764 aviation cadets.

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL ON ACTIVE DUTY BY GRADE IN WHICH SERVING, OCT. 31, 1972

	Total Department of Defense	Army	Navy	Marine Corps	Air Force
Total	3,635,912	1,596,419	824,265	231,967	[1] 983,261
Officers, total	375,829	148,427	82,274	16,413	128,742
General of Army or fleet admiral	6	3	3		
General or admiral	19	8	5	1	5
Lieutenant general or vice admiral	65	22	25	4	14
Major general, brigadier general, or rear admiral	1,052	165 / 281	[3] 256	18 / 31	120 / 181
Colonel or captain	12,490	4,869	2,983	516	4,122
Lieutenant colonel or commander	28,927	12,830	6,632	1,011	8,454
Major or lieutenant commander	53,008	17,249	12,222	2,848	20,689
Captain or lieutenant	107,412	36,988	24,958	5,549	39,917
1st lieutenant or lieutenant (j.g.)	81,556	36,595	15,004	647	29,310
2d lieutenant or ensign	65,937	24,922	14,356	4,932	21,727
Chief or Comm Warrant W-4	447	281	15	20	131
Chief or Comm Warrant W-3	2,507	853	1,011	358	285
Chief or Comm Warrant W-2	6,706	2,243	2,974	459	1,030
Junior warrant or warrant	15,697	11,118	1,803	19	2,757
Enlisted, total	3,245,310	1,446,266	735,753	215,554	847,737
E-7	154,837	43,930	58,104	7,657	45,146
E-6	202,123	78,367	61,849	7,935	53,972
E-5	364,434	165,396	60,790	11,441	126,807
E-4	630,129	326,603	115,124	28,791	159,611
E-3	845,724	411,604	220,249	33,177	180,694
E-2	806,266	295,684	177,118	105,849	227,615
E-1	241,797	124,682	42,519	20,704	53,892
Officer candidates, total	14,773	1,726	6,265		6,782
Cadets USMA	1,726	1,726			
Navy Officer Candidates	6,265		6,265		
Aviation Cadets	6,782				6,782

[1] Includes 4 commodores.

[2] Includes 9,787 Army personnel in training for SCARWAF duty

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL ON ACTIVE DUTY BY GRADE IN WHICH SERVING, JUNE 30, 1971

	Total Department of Defense	Army	Navy	Marine Corps	Air Force
Total	2,714,727	1,123,810	623,248	212,369	755,300
Officers, total	371,416	148,950	74,782	21,765	125,919
General of Army or fleet admiral	1	1			
General or admiral	39	15	9	2	13
Lieutenant general or vice admiral	145	45	49	9	42
Major general, brigadier general, or rear admiral	1,145	197 / 255	256	28 / 38	157 / 214
Colonel or captain	17,388	6,008	4,286	747	6,347
Lieutenant colonel or commander	40,431	14,607	8,673	1,650	15,501
Major or lieutenant commander	65,724	22,302	15,015	3,350	25,057
Captain or lieutenant	122,351	49,130	18,829	5,643	48,749
1st lieutenant or lieutenant (junior grade)	59,686	24,010	13,738	6,084	15,851
2d lieutenant or ensign	39,288	13,691	9,488	2,522	13,587
Chief warrant officer W-4	2,345	1,621	243	83	398
Chief warrant officer W-3	3,637	3,219	104	314	
Chief warrant officer W-2	14,848	11,076	2,815	957	
Warrant officer W-1	4,388	2,773	1,277	338	
Enlisted, total	2,329,754	971,872	542,298	190,604	624,980
E-9	15,926	4,546	3,390	1,700	6,290
E-8	40,842	15,687	9,018	3,750	12,387
E-7	151,649	58,392	38,864	8,903	45,490
E-6	270,733	94,725	77,693	14,760	83,555
E-5	450,338	181,068	94,370	25,236	149,664
E-4	576,306	266,825	118,315	33,788	157,378
E-3	409,904	129,900	134,680	43,722	101,602
E-2	210,415	74,958	53,226	30,789	51,442
E-1	203,641	145,771	12,742	27,956	17,172
Officer candidates, total	13,557	2,988	6,168		4,401
Cadets USMA	2,988	2,988			
Midshipmen USNA	4,485		4,485		
Cadets USAFA	4,401				4,401
Naval enlisted officer candidates	1,683		1,683		

DEPARTMENT OF DEFENSE—MILITARY PERSONNEL ON ACTIVE DUTY BY GRADE IN WHICH SERVING, JUNE 30, 1952

	Total Department of Defense	Army	Navy	Marine Corps	Air Force
Total	2,371,574	865,463	593,824	199,168	713,119
Officers, total	331,233	120,576	71,170	19,609	119,478
General of the Army or fleet admiral	1	1			
General or admiral	38	13	9	2	14
Lieutenant general or vice admiral	142	48	47	8	39
Major general or rear admiral (U)	480	197	105	24	154
Brigadier general or rear admiral (L)	651	249	153	38	21
Colonel or captain	16,547	5,647	4,101	697	6,102
Lieutenant colonel or commander	36,832	12,411	8,443	1,544	14,434
Major or lieutenant commander	61,432	20,133	15,446	3,053	22,800
Captain or lieutenant	112,674	39,405	19,301	5,036	48,662
1st lieutenant or lieutenant (jg)	43,114	15,535	9,270	4,717	13,592
2d lieutenant or ensign	37,620	11,402	10,253	2,681	13,284
Chief warrant officer W-4	1,923	1,464	109	164	186
Chief warrant officer W-3	4,548	3,279	639	630	
Chief warrant officer W-2	12,600	9,289	2,684	627	
Warrant officer W-1	2,631	1,503	1,010	118	

	Total Department of Defense	Army	Navy	Marine Corps	Air Force
Enlisted, total	2,026,542	740,931	516,391	179,559	589,661
E-9	15,230	4,082	3,747	1,495	5,906
E-8	37,922	13,644	9,057	3,288	11,933
E-7	140,541	50,644	37,722	8,664	43,511
E-6	250,660	82,903	74,894	12,912	79,951
E-5	366,088	123,291	83,191	25,310	134,296
E-4	473,310	189,972	107,592	22,800	152,946
E-3	305,381	85,125	99,464	28,434	92,358
E-2	195,745	74,068	50,503	34,367	36,807
E-1	241,665	117,202	50,221	42,289	31,953
Officer candidates, total	13,799	3,956	5,863		3,980
Cadets, U.S. Military Academy	3,956	3,956			
Midshipmen, U.S. Naval Academy	4,236		4,236		
Cadets, U.S. Air Force Academy	3,980				3,980
Naval enlisted officer candidates	1,627		1,627		

JUNE 30, 1945

Category	Total	DOD ratio	Officer ratio
Generals of the Army/fleet admirals and generals/admirals	20	1/606,172	1/63,005
Lieutenant generals/vice admirals	101	1/120,034	1/12,476
Major generals/brigadier generals/rear admirals	1,929	1/6,284	1/653
Colonels/captains	14,989	1/808	1/84
All generals	2,050	1/5,913	1/614
All categories above	17,039	1/711	1/73
Total, DOD Armed Forces	12,123,455		
Total, Officer Corps	1,260,109		
Total, Officer Corps/total DOD ratio		1/9.6	

JUNE 30, 1952

Category	Total	DOD ratio	Officer ratio
Generals of the Army/Fleet Admirals and generals/admirals	25	1/145,436	1/15,033
Lieutenant generals/vice admirals	65	1/55,937	1/578
Major generals/brigadier generals/rear admirals	1,052	1/3,456	1/357
Colonels/captains	12,490	1/291	1/30
All generals	1,142	1/3,183	1/329
All categories above	13,632	1/266	1/27
Total, DOD Armed Forces	3,635,912		
Total, Officer Corps	375,829		
Total Officer Corps/total DOD ratio		1/9.6	

JUNE 30, 1971

Category	Total	DOD ratio	Officer ratio
Generals of the Army/fleet admirals and generals/admirals	40	1/67,868	1/9,285
Lieutenant generals/vice admirals	145	1/18,722	1/2,561
Major generals/brigadier generals/real admirals	1,145	1/2,370	1/324
Colonels/captains	17,388	1/156	1/21
All generals	1,330	1/2,041	1/279
All categories above	18,718	1/145	1/20
Total, DOD Armed Forces	2,714,727		
Total, Officer Corps	371,416		
Total, Officer Corps/total DOD ratio		1/7.3	

OCTOBER 31, 1972

Category	Total	DOD ratio	Officer ratio
Generals of the Army/Fleet Admirals and generals/admirals	39	1/60,809	1/8,493
Lieutenant generals/vice admirals	142	1/16,701	1/2,332
Major generals/brigadier generals/rear admirals	1,131	1/2,096	1/292
Colonels/captains	16,547	1/143	1/20
All generals	1,312	1/1,807	1/252
All categories above	17,859	1/132	1/18
Total, Officer Corps/total DOD ratio		1/7.1	

	Budgeted ceilings end year of June 30, 1974	Proxmire amendment ceilings	Reduction
O-10 General/admiral	38	38	0
O-9 Lieutenant general/vice admiral	142	139	3
O-8 Major general/rear admiral	456	443	13
O-7 Brigadier general/rear admiral	627	606	21
Subtotal	1,263	1,226	37
O-6 Colonel/Navy captain	15,785	15,679	106
O-5 Lieutenant colonel/commander	35,152	34,921	231
O-4 Major/lieutenant commander	57,379	56,864	515
			852
Total	109,579	108,690	889

Note: Percent of total reduction: 0.8 percent.

Mr. PROXMIRE. Mr. President, what does this ongoing increase in officers mean? First, it means an inevitable multiplication of staffs where high-ranking officers can be placed. Admiral Rickover can work without a staff but there are few if any others like him. So the higher the rank and numbers, the more slots must be opened up to accommodate the rank. Therefore, high-ranking officers are occupying even lower echelons of responsibility.

Headquarters are built up to supervise the supervisors. The Armed Services Committee has pointed out that there are 9,500 headquarters staff assigned to European stations. In the Supreme Headquarters Allied Powers Europe, there are 31 generals and admirals, 141 colonels and Navy captains, and 332 lieutenant colonels and Navy commanders.

Take a look at Hawaii. There are five major commands in Hawaii alone—4,641 personnel are assigned to these five commands and a unified command.

One thousand and twenty-eight men are assigned to the Army headquarters in Hawaii which only looks after the single U.S. division in Korea. Furthermore, there are 948 more people assigned to headquarters in the 8th Army Command in Korea and 123 assigned to the Army I Corps in Korea. This is not counting the 274 assigned to the United Nations Joint U.S. Command in the same place.

As the Armed Services Committee report concluded, the Second Infantry Division in Korea must be the most supervised unit in the world.

In total these five Hawaiian commands contain 41 generals and admirals, 263 colonels and Navy captains, and 524 lieutenant colonels and Navy commanders.

Now I can understand why military men like to serve in Hawaii. Who would not enjoy that beautiful State? But this is precisely the bloated structure Admiral Rickover has warned us against.

The day may come when we will need to fight. I hope that the headquarters generals and admirals are in good shape. They may have to get out in the field to flesh out our combat divisions.

Mr. President, let me recapitulate briefly. We have a crisis staring us in the face. Even our best military leaders have sounded the alarm—the Secretary of Defense and the famed Admiral Rickover. We must move now to regain control over the number of headquarters and field rated officers in our Armed Forces. Admiral Rickover has said:

> We have almost reached the point where the Congress will become little more than a constitutional relic, a vestigial organ of the body politic.

I hope he is wrong on that account.

The acceptance of this amendment would be a signal to those in the Defense Department who have voiced the same concerns.

With the committee mandated reduction of 62,000 personnel in the Armed Forces, there will be attempts to release low-ranking officers and enlisted men.

Only by establishing a firm Grade Creep provision can this tendency be curtailed.

Any cuts made should be distributed and should not perpetuate the existing grade escalation problem. This amendment will be an insurance policy against continuation of policies and promises for reform which we always get. We bring up these amendments, and they say, "Let us work on it; we are making progress; we are moving ahead." But they never materialize.

Mr. President, in 1959 the Pentagon promised to put forward grade creep legislation, but nothing happened. Last year, the Department of Defense was pressured into conducting another review, and they subsequently submitted a report entitled "Report on Officer Grade Limitations." I hold in my hand the report they developed after I offered an amendment, and the amendment was considered by the Senate, and we acted on it. They said that they would study the entire problem and make a report. But again they declined to deal with the problem. Their legislative recommendations were partial at best and completely exempted all generals and admirals. Fourteen years is long enough. Obviously they cannot step on the toes of fellow high-ranking officers. It is difficult for the Pentagon to do that. But Congress is in a position to act, and that is why the House was wise in acting as they did.

As Admiral Rickover has testified, the Pentagon will not make these decisions. They have had not 1 year or 2 years but 14 years. It is up to Congress. I hope that under the circumstances we can act. The House has done so. I think we should do no less.

Mr. President, I yield the floor.

Mr. McCLELLAN. Mr. President, I wish to make this observation. It may very well be that the military services are top heavy with commissioned personnel and that the number ought to be reduced. But what we are doing with provisions such as this in an appropriation bill—and we are doing more and more of of it—is destroying the integrity of the legislative committees. I think the Armed Services Committee should have the responsibility and should take the responsibility for taking an issue of this kind, reviewing it, studying it, getting information about it, and then legislating accordingly. That is the only reason why I favor striking this proposal, because it has not had that in-depth study.

The Armed Services Committee could take this matter and go into it and bring to this body proposed legislation to deal with the problem, deal with it properly.

If this amendment were offered here in the Senate and had not come from the House, as it did, it would be subject to a point of order, because it is legislation.

The whole purpose of striking this matter, the prime purpose, was to preserve the proper committee jurisdiction. It is legislation. Occasionally, we do this in some emergency situations. In that situation, we give notice here under the rule and amend an appropriation bill with legislation. But this is a practice about which, in my judgment, we ought to be a little more circumspect.

Otherwise, in my judgment, we are going to impair the integrity of our legislative committees. The Appropriations Committee is not a place for legislation. We ought to take this provision to the House in this manner and go back into conference and talk about it.

Perhaps many officers ought to be dismissed from the service, or maybe we ought not give more commissions in a certain grade. I am not opposed to that. But there are not a great deal more than there were years ago, percentage-wise. The matter should be studied.

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

The yeas and nays were ordered.

Mr. YOUNG. Mr. President, I agree with the chairman of the Committee on Appropriations that this is not a matter that should be handled by the Appropriations Committee. The Committee on Appropriations does not have the background or experience of the Armed Services Committee. Also, this should be a matter for legislation and not appropriations.

One reason I am against this amendment is that, although one may agree with the Senator from Wisconsin that perhaps there are sufficient or even too many officers' billets, but is there enough flexibility? I cite, for example, that of admirals and generals, where they change billets in NATO, or the Joint Chiefs of Staff.

Perhaps a compromise could be reached in conference by which the services would have the same total number of officers in each rank but more flexibility for change an officer of a different service is assigned a billet previously held by another service.

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

Mr. YOUNG. I yield.

Mr. GOLDWATER. Mr. President, we have been through this time and again, where, by an amendment on the floor, an effort is made to cut down the number of officers in the armed services.

It is interesting to learn that of the leading military countries in the world, with the exception of the Soviet Union—material cannot be gathered on them—the United States has 54 generals and admirals per 100,000 active duty servicemen. Only one country in the world has fewer, and that is the Free Republic of Germany, with 47. It reaches a height of 373 generals per 100,000 for Sweden. Strangely, for those who like to use the argument that the man in uniform causes war, Sweden has not been in a war since 1814.

Mr. President, the position of the star rank officer—and I include colonels not in star but top ranking—has changed. We are approaching an army greatly reduced in size but greatly in demand of highly trained technical people—people with doctor's degrees and master's degrees, something we never required, even in World War I or World War II. But war is becoming more of an electronic affair than a man-to-man affair, and we are going to need high-ranking people whether we like it or not, whether some Senators feel it is out of balance or not. We are going to have to provide these ranks in order to compete with the obtaining of skills that are badly needed in the civilian sector.

We keep hearing about the number of generals and colonels and lieutenant colonels and admirals, and so forth, but nobody ever raises on this floor the bloated condition of the civil service. We have civilian executive suites manned by more than four times as many super grades—GS-16, 17, and 18—equivalent to general and flag rank, as are in military headquarters.

Yet, I never hear of anyone getting up on the floor to cut the civil service, to cut our own bloated staffs, to cut out all the committees we do not need in Congress. All we hear is abuse heaped upon the military because we have a number of general officers and a number of admirals.

Mr. President, this is the prerogative of the Committee on Armed Services; and, speaking as a member of that committee, we give this our constant attention. We have not yet found it advisable to cut down the number of flag rank officers or colonels or lieutenant colonels. In fact, we are faced now with some problems created by the House in losing good men, mainly by having denied these men flight pay and other types of hazard pay.

So, Mr. President, I am hopeful that this amendment will be soundly defeated. It is not in the best interests of the military. It is not in the best interests of our country.

Mr. STENNIS. Mr. President, I shall not detain the Senate very long on this matter. It has been gone over many times on the floor of the Senate. The manpower matter was last considered on the floor by an amendment offered to the authorization bill by the Senator from Wisconsin, and I have no critical words as to him. He works hard and does a great deal of good. On a rollcall vote, the Senate voted down that proposal, 41 to 31.

Mr. President, reference has been made to Admiral Rickover and what he may have said at any given time, especially on matters outside of his line of duty. He is one of the best officers we have or have had for a long time. I have a great deal of respect for him. I have found, though, that he is not timid in asking for money or manpower if it is something directly in line with what he is doing. He does an excellent job in whatever assignment he undertakes.

We have two bills now. Intentionally or not, this has the effect of giving the impression that the Committee on Armed Services is not doing its job. A good many years ago Senator Russell appointed a subcommittee on the subject of general officers and he made me the chairman of that subcommittee. We recommended a formula that was below the legal ceiling, and we said we would not approve more than was contained in the legal formula. That is known as the Stennis amendment. That was debated for many years in various publications. But I never did yield, and we held them below the legal ceiling. I did learn a little bit

about the subject matter in all of that experience.

Then, the war in Vietnam came along. It virtually destroyed that lowered ceiling and we have not yet gotten back to it. Some of my work has been on this very sticky and vexing problem of manpower that has to be dealt with. I did not get to it but we did get an excellent staff person who is working on the problem. He knows the problem from A to Z and he has already turned in some good work with relation to it and has been of help to the Senator from Missouri (Mr. SYMINGTON) and other members of the committee.

We have had two bills in the last 10 days that would authorize the Department of Defense to discharge regular colonels and lieutenants colonels. Their position is they do not have the authority to do what we are demanding be done, and already have demanded in law by reducing the money. They have to get rid of them under that law but they do not have proper authority. We are going into that to see if it is necessary to have legislation. But that does show that the Department of Defense is now moving on this matter in a very orderly way.

So far as those two bills are concerned affecting lieutenant colonels and colonels, if we find it to be correct we will, of course, bring that out in the form of proposed legislation.

I warn Senators now there is no more difficult matter to deal with than this manpower problem. I know they are inclined to hold onto everything they have over in the Department of Defense, but they are going to have to yield more on the manpower and make some reductions. From the standpoint of sound military strength, we better do it now under the guidance of someone who knows the problem and who can interpret all the law on the subject.

Also, I want us to allow some kind of margin if we get into a threat of war. After all, we cannot go down to Pennsylvania Avenue and 12th Street and blow a whistle and get a lot of men to lead in combat or direct logistics, or anything else. These men have to be trained all the way up and be experienced in some degree. Too rigid a requirement would have knocked out all the Eisenhowers and all the Bradleys and some others I could name that came along in World War II and gave the leadership to serve this Nation.

I am not asking for any favors for the Committee on Armed Services. This is our duty under direct mandate of law. I think we are making reasonable headway on it. I think we have a Secretary of Defense that is trying to do something about this very problem, but in an orderly and systematic way.

Mr. President, I have one other point, and this is virtually all I will have to say. We passed a law with respect to the Air Force. The Senator from Wisconsin was in on that. He was very helpful in his leadership. He presented an amendment on the subject and we agreed to a modification, and I believe on September 30, 1974, they must have ready for presentation to Congress a modified plan for officers in all the services and not only the Air Force. The other services are required to have something here that will be orderly and have meaning. Frankly, I think they are going to do it. They will have to do it under the leadership of the present Secretary of Defense.

This amendment would knock out 889 men. I do not know where those numbers came from. I do not know what kind of system was used. Beginning with majors and lieutenant commanders, that is the figure I have on the number of reductions.

My suggestion is that we let this matter ride along with this plan that is already in effect, and a part of which is in the law. The rest of it is in plans of the Secretary of Defense and I believe that in the intervening months, the next 6, 8, or 10 months, that a much sounder and more effective method will be found and adopted.

I am for it, but if I am the last one left I am not going to go overboard on some kind of plan just to reduce officers by number, by cutting off the appropriation money and just take them out, let them go, push them out, or just stop the pay. I am not going to take part in a plan like that. I am just one Senator, of course. I am glad to submit this matter to the Senate.

I have before me a copy of a letter addressed to Mr. James R. Schlesinger, Secretary of Defense, with respect to the Senator's amendment. I wrote to the Secretary because I was against the amendment and voted against it. This is the amendment that was defeated by a vote of 41 to 31. I was calling upon the Secretary of Defense to do something about the matter.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the letter dated October 24, 1973, addressed to James R. Schlesinger, Secretary of Defense.

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

OCTOBER 24, 1973.

Hon. JAMES R. SCHLESINGER,
Secretary of Defense
Washington, D.C.

DEAR MR. SECRETARY: As you know, one of the amendments recently considered on the Senate Floor in connection with the FY 1974 Military Procurement Authorization Bill was a proposal by Senator Proxmire which would have required as a matter of law certain reductions in the headquarters and headquarters staff. Those reductions were suggested in the Committee Report as illustrative of reductions which could be made in support and headquarters activities. The Committee Report indicated that over 10,000 positions might possibly be saved in this area.

The amendment was defeated and I opposed the adoption of the amendment. I would not want my vote as well as that of many Senators to be mis-interpreted as meaning that no reductions in headquarters personnel are desirable or possible. The reason for opposing this amendment was based on the Committee position that while substantial cuts should be made, the Secretary of Defense should apportion the cuts and have the latitude to make the cuts wherever he deemed best, as part of his management responsibilities. The Committee Report cited the headquarters activities among a number of others as being illustrative of areas where reductions might well be made in non-combat activities.

I realize that many times the Congress makes what might be termed as "gestures" in support of manpower reductions but these are never made mandatory as a matter of hard law. The Services understandably do not take these actions too seriously if they are not specifically required by law.

The point I can not too strongly emphasize in this letter is that if the Department of Defense does not make rather substantial reduction in the one million men in headquarters and support activities in the coming months, you can be sure that the Armed Services Committee will be compelled to take more stringent action next year in order to achieve some results. I recognize that over the years headquarters and support activities, especially NATO, have become institutionalized and there is great resistance in reducing un-needed or marginal functions. This results in a tendency on the part of the Services to make any mandated reductions in combat activities.

I am sympathetic to the severe problems you face in achieving meaningful reductions in this area. I write this letter to put the Services on notice of the Committee's intention next year, so far as I am concerned, if demonstrable results are not otherwise achieved.

Sincerely,

JOHN C. STENNIS.

Mr. PROXMIRE. Mr. President, I shall be very brief. No one in the Senate speaks with more authority on this subject than the distinguished Senator from Mississippi. Not only do we all respect him and admire him, but we have great affection for him. When he speaks on this subject most of us are inclined to simply support him because he has such great experience. But I submit under these circumstances if we are going to act to do something about the tremendous number of admirals and generals we have, compared to our experience in the past, our experience in World War II and the Korean war, here is the one way, the one effective way we can act.

The distinguished Senator from Mississippi has asked us to wait until we can get further information and act in a more orderly way. There is an old song, an old constantly repeated refrain. The Department of Defense has been studying this question. We could almost put that to music. Well they came forth with their report, and what did their report do? It provided us with no recommendation on admirals and generals. I have the report in my hand. This is the kind of literally no action recommendation they make when we have six times as many flag officers now, in relation to our troops, as we had in World War II. When in some categories, full generals, we have more generals absolutely than we had in World War II, it obviously is going to take decisive action by the Congress if something is to be done about it.

This is a very difficult matter to handle, because the Pentagon is concerned about taking care of their own people. That is understandable and it is human. But it is wrong. It is a taxpayer rip-off.

Mr. President, what I have proposed does not require the wholesale discharge of officers. It would be a reduction of eight-tenths of 1 percent, less than 1 percent, easily handled on the basis of attrition. In some categories there would

be no reduction whatsoever. In other categories, there would be a reduction of 1 or 1½ percent—a very modest hold-down.

As I say, it is not something that just springs from the office of a Senator. This is something the House Appropriations Committee wrote into the bill. Under the circumstances, I would hope the Senate would favorably consider the amendment and support the position taken by the House.

I yield the floor.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment and I will say just a word or two.

First, I want to commend the able and distinguished chairman of the Appropriations Committee for saying that this is a matter for the Armed Services Committee, and that is exactly what it is.

I appreciate the desire of the distinguished Senator from Wisconsin to reduce the high ranks, and there may be some merit in his position, but how can he say, for instance, that the Navy needs 10 admirals rather than that it needs 12 or 15 admirals? Has he had a chance to study that matter? Has he gone into this carefully? How can he say the Marines need only 1 general rather than 2 or perhaps 3, or that the Air Force needs 10 generals instead of 12 or 16? How can he say the Navy needs 14,800 lieutenant commanders? Why not 15,000 or 16,000?

I could go on.

In other words, Mr. President, this is a matter that deserves the utmost consideration. It deserves the careful consideration of the Armed Services Committee, where the committee can go into it in detail and determine these matters.

The distinguished chairman of the Armed Services Committee has said studies are being made. Further studies will be made. All of us wish to reduce unreasonable numbers of high ranks. At the same time, this is a meat-ax proposal. It is a hit-and-miss proposition to say, "give the Army so many generals, give the Air Force so many," because I am sure the distinguished Senator from Wisconsin has not had the opportunity to go into these questions carefully.

I hope the Senate will defeat the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin. 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 Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. MCCLURE) is absent on official business.

The result was announced—yeas 38, nays 53, as follows:

[No. 580 Leg.]

YEAS—38

Abourezk	Haskell	Nelson
Bayh	Hatfield	Packwood
Bellmon	Hathaway	Pearson
Biden	Hughes	Percy
Burdick	Humphrey	Proxmire
Byrd, Robert C.	Javits	Randolph
Case	Kennedy	Ribicoff
Clark	Mansfield	Schweiker
Cranston	Mathias	Stafford
Eagleton	McGovern	Stevenson
Gravel	Mondale	Weicker
Hart	Moss	Williams
Hartke	Muskie	

NAYS—53

Aiken	Dominick	Metcalf
Allen	Eastland	Montoya
Baker	Ervin	Nunn
Bartlett	Fannin	Pastore
Beall	Fong	Pell
Bentsen	Goldwater	Roth
Bible	Griffin	Scott, Hugh
Brock	Gurney	Scott, William L.
Brooke	Hansen	Sparkman
Buckley	Helms	Stennis
Byrd, Harry F., Jr.	Hollings	Stevens
Cannon	Hruska	Taft
Chiles	Huddleston	Talmadge
Cook	Jackson	Thurmond
Cotton	Long	Tower
Curtis	Magnuson	Young
Dole	McClellan	
Domenici	McGee	
	McIntyre	

NOT VOTING—9

Bennett	Inouye	Saxbe
Church	Johnston	Symington
Fulbright	McClure	Tunney

So Mr. PROXMIRE's amendment was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. YOUNG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TESTING OF IRRADIATED FOODS AT NATICK, MASS.

Mr. KENNEDY. Mr. President, I am delighted that the Senate Appropriations Committee under the distinguished leadership of Senator MCCLELLAN has restored to the Department of Defense appropriation bill $1 million for the wholesomeness testing of irradiated foods.

Since 1963, the irradiated food program has been centered at Natick Army Labs in Massachusetts. The goal of the program has been to develop a safe, cheap, and nutritious method of irradiating food. On October 6, 1972, we were successful in the Senate in restoring $2.2 million to continue this food research and development program. And it is even more crucial that the $1 million needed to complete the program be appropriated now.

Mr. President, irradiated food has gone to the Moon with our astronauts who can testify both as to its nutritious qualities and its attractiveness and tastiness. But further testing is needed to meet FDA requirements for general distribution of irradiation techniques for food preservation.

A 20-year investment of $34.5 million would be wasted if the program ended today; and the program is within 2 years of completion according to those in charge of the project at Natick Labs.

Particularly at this time when the Nation is facing a severe energy shortage, it is crucial that we develop new ways to preserve our food. The research at Natick in the food irradiation program is not simply for the benefit of the Armed Forces; it will ultimately benefit families all across the Nation by providing cheaper food, which can be preserved for long periods of time.

Mr. President, I discussed at some length in the Senate yesterday the world hunger crisis; and I would like to add to those remarks the observation that I do not feel we can afford any longer to turn away from research which may in any way help to alleviate that crisis.

I ask unanimous consent to have printed in the RECORD the remarks of Dr. Edward S. Josephson, the director of the food research program at Natick. He outlines in detail the progress and the potential of the wholesomeness testing of irradiated food project at Natick Labs.

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

ACTION BY HOUSE APPROPRIATIONS COMMITTEE RECOMMENDING TERMINATION OF WHOLESOMENESS TESTING OF IRRADIATED FOODS

1. Reference: Committee Print, 93rd Congress, 1st Session, House of Representatives, Report No. 93-662, 26 November 1973, page 204.

2. Problem: "The Committee believes that enough time (20 years) and effort ($34.5 million) have been spent on this project, that its ultimate usefulness is questionable, and that the program should have already developed sufficient data for conclusions to be made. Therefore, the funds requested for further testing have been deleted." One million dollars ($1,000,000) in FY 74 funds are involved.

3. I believe the Committee would not have made its recommendations if it had the following facts:

a. Although the Army Surgeon General and the overwhelming preponderance of experts in the field state that irradiated foods are safe to eat, it is the U.S. Food and Drug Administration (FDA) which must make final judgment. FDA establishes the requirements for the scientific evidence it needs before approving the food irradiation process according to the Food, Drug and Cosmetic Act as amended in 1958 (Radiation is defined as a Food Additive under this act). The evidence FDA requires is a three-year multigeneration study of irradiated beef fed to dogs, rats, and mice and comparing the effects on animals consuming the irradiated beef with control animals eating non-irradiated beef preserved by traditionally approved methods (frozen beef and heat sterilized canned beef). Once these studies begin, they must continue to completion without interruption—if you stop at any stage, you have to start all over again. Involved in the study are 1,500 dogs, 20,000 mice, and 27,000 rats. Termination now, when the beef feeding study is about 55% completed (completion in June 1976) would result in a loss of an investment of 20 years effort and $34.5 million with all the benefits of the food irradiation process lost to the armed forces and to the nation.

b. Success potential of the animal feeding study if carried to completion is excellent. The dogs eating irradiated beef since December 1971 are doing as well as or better than those eating frozen beef or heat sterilized canned beef. The dog feeding study is scheduled for completion in December 1974. The

rodent portion of the study, which ran into unexpected nutritional problems not related in any way to irradiation, is now proceeding well. The rodents which have been eating the irradiated beef since April 1973 are performing as well as or better than those eating the frozen or heat sterilized canned beef. This phase of the study will be completed in June 1976.

c. Because irradiation sterilized foods can keep for long periods without refrigeration, they are of particular value when supply or resupply of food is difficult or impossible. For this reason, irradiated ham (Nebraska Space Ham) was used by the astronauts on the Apollo 17 mission to the moon with excellent results. The Nebraska Space ham is a back-up food for SKYLAB to be used in the even power shortages result in spoilage of the non-irradiated foods.

d. Irradiation reduces or eliminates the need for nitrites needed in non-irradiated ham, bacon, sausage, frankfurters, luncheon meats. Nitrites have been indicted as potential cancer-causing agents in non-irradiated cured meats and fish because they can form nitrosamines which are potent carcinogens. If FDA and USDA ban the use of nitrites, this would cause a convulsion in the entire food chain (producers, processors, distributors, vendors and consumers). Terminating the wholesomeness feeding studies could deny the possibility of being able to continue to eat cured meats and fish.

e. The animal feeding study of irradiated beef, because it uses heat sterilized (canned) beef for comparison purposes, serves as a scientific basis for confirming the safety of the thermal processing of foods. The thermal process (canning) discovered in 1809 by Nicholas Appert, evolved over the years to become an established process prior to creation of an FDA. If the irradiated beef study is terminated, the opportunity for verification of the safety to the consumer of the thermal canning process will be lost. The study so far has given the thermal process a clean bill of health.

f. Irradiation sterilized foods, once processed, require no electric, gas, fuel, or other source of energy to prevent spoilage. These foods can "keep" for years without refrigeration. Their widespread use will significantly lower the nation's energy needs at all levels—from the processer to the consumer. This can be realized only if the wholesomeness study can be completed so FDA can issue the necessary regulation permitting the processing, sale, and consumption of foods sterilized by ionizing radiation.

g. Irradiated sterilized foods, because of the long term keeping qualities without refrigeration, can alleviate the violent fluctuations in the marketing of agricultural products—shortages, boycotts, gluts. They can also help our exports and contribute to maintaining a favorable trade balance. They support the nation's foreign policy where food is used as an instrument.

h. Except for meeting the statutory requirements for which the beef feeding study is intended, we have essentially completed R & D on irradiated beef, chicken, pork, ham, ground beef, bacon, pork sausage, corned beef, shrimp, and cod fish cakes. The value of these foods not only to the American taxpayer, but also to the world would be lost if the aspects of the program to meet the statutory requirements are not completed.

i. A recent Department of Commerce Study indicated that had six irradiated meats been available for Southeast Asia in 1968, the U.S. Government would have saved at least $18 million in that year alone. The relatively small additional investment in resources to complete the wholesomeness study of beef would be repaid manifold annually in savings not only to the military, but to society as a whole. This is of increasing importance when the food bill of each and every household keeps jumping.

j. The industry representatives surveyed in March and April 1972—producers, processers, and distributors at the wholesale and retail level—almost unanimously (only one exception of 17 surveyed) indicated their interest in commercializing the food irradiation process once FDA and USDA approvals are received. These approvals can come only if the beef study can be completed.

k. If the process is allowed to "go commercial", we can beneficially use cesium-137, a steadily increasing waste product (30 year half-life) from the atomic reactors, doubling every 4–5 years. There are now hundreds of millions of curies of cesium-137 buried in the ground. Beneficial use of this cesium would be ecologically very significant and will save the very significant amounts of energy used in heat sterilization or for keeping trucks, trains, warehouses, ships, and dock facilities at refrigerated temperatures.

l. As of 30 November 1973, it is estimated that $556,000 have been obligated of the $1,000,000 anticipated in the FY 74 RDT&E appropriation. Termination costs incurred both by the contractor and separation from employment of in-house personnel are not known but could be considerable. As of 30 November 73, approximately $600,000 remain of unobligated funds at the Natick Laboratories in the three other projects in the same program budget element as the Wholesomeness Testing of Irradiated Foods. If restitution of funds expended in the Wholesomeness project is mandatory, it will mean the termination of other RDT&E effort not related to food irradiation encompassing the Mobile Field Kitchen and the Small United Meal, both having high priority under the DOD Food Program.

4. I am sure if the foregoing facts are brought to the attention of the Congress, it will appropriate the funds needed to continue to completion the wholesomeness testing of irradiated beef.

EDWARD S. JOSEPHSON,
Acting Deputy Technical Director for Research, U.S. Army, Natick Laboratories.

Mr. KENNEDY. The Senate is considering the Department of Defense appropriations bill today which contains the funding for our strategic forces. Those forces are predicated on an underlying strategy of nuclear deterrence.

In a statement made to the Pacem in Terris III conference earlier this year, Dr. Herbert F. York of the University of California at San Diego, a former Science Adviser to Presidents Eisenhower and Kennedy and former Director of Defense Research and Engineering for the Department of Defense, makes an eloquent plea for reexamining the level of forces we have constructed in support of that strategy of deterrence.

I particularly would call to the attention of my colleagues, Dr. York's suggestions for steps to lower the level of overkill now contained within the nuclear arsenal of the Soviet Union and ourselves.

I ask unanimous consent that this address, "Deterrence by Means of Mass Destruction," be printed in the RECORD.

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

DETERRENCE BY MEANS OF MASS DESTRUCTION

(By Herbert York)

In this paper I shall try to make two main points and one specific proposal based on them.

The first point is that, while Deterrence through the Threat of Mutual Assured Destruction may be the best strategy available to us at the present time, we should not delude ourselves into believing that it is a good strategy. It is a terrible strategy, and a very high priority, long-run objective should be to get rid of it altogether.

The second point is that, even if we accept the strategy of deterrence as the best currently available to us, the stockpile of weapons we now rely on to produce it is from ten to one hundred times as murderous and destructive as it needs to be to satisfy that purpose. Therefore, a very high priority objective for the immediate future should be to reduce greatly the current level of "overkill" even while we still maintain the strategy of deterrence.

The specific proposal describes a way to make a very large reduction in overkill without requiring or producing any change in the strategy of nuclear deterrence.

Basically, a strategy of nuclear deterrence is one in which we seek to prevent certain political or military actions by others by threatening to use our nuclear weapons rather than by actually using them. Maintaining such a strategy, therefore, is more a matter of political psychology than of nuclear technology. Someone will be deterred if he believes that the nuclear punishment he will receive will be more severe than the achievement of some particular objective merits. Thus, the actual physical properties of the weapons only enter the deterrence equation insofar as the physical properties affect the beliefs of the various parties. However, if and when deterrence fails, the matter changes radically. Then it is no longer what people believe about the weapons that counts, but the real physical facts about their properties.

Twenty years ago, the general strategy of nuclear deterrence was particularlized in John Foster Dulles' doctrine of Massive Retaliation. The Korean War was fresh in peoples' minds, and those who advocated massive retaliation were in effect saying, "The next time we are seriously challenged, we will not allow the enemy to choose the place and style of warfare most favorable to him." Instead, they said, "If there is another attack anywhere on one of our allies, we will immediately retaliate with a massive nuclear strike on the real source of the new aggression." At that time, the idea was to deter conventional war anywhere in the world, but especially in Europe, through the threat of massive nuclear retaliation. The United States was able to make such a threat because we had an overwhelming superiority in nuclear weapons. We had, perhaps, a few hundred atomic bombs, each somewhat bigger than the one that had killed about 100,000 people in Hiroshima eight years earlier. We also had many long-range aircraft and we had many air bases from which even short-range aircraft could reach the Soviet Union On the other hand, the Soviets had only just begun to accumulate atomic bombs, their aircraft were less capable, and they had no air bases close to our heartland. The situation was so unsymmetrical that it made perfectly good sense from our point of view to deter conventional attack by a threat of massive retaliation.

Since then, the situation has changed radically. In the meantime. the hydrogen bomb has been perfected, resulting in a thousandfold increase in the power of individual weapons. Now nuclear bombs number in the tens of thousands rather than in the hundreds, intercontinental bombers and rockets have replaced short-range aircraft, and forward bases are no longer essential. Most important, there are now two nuclear superpowers possessing these extreme capabilities, and there are three other nuclear powers each of which has a nuclear capability that is small compared to what the superpowers have today, but enormous compared to that which the USA had when it first put forth its policy of massive retalia-

tion. In recognition of the fact that for some time now there has been a rough balance of terror between the two superpowers, we now speak of deterrence as being based on the threat of *Mutual* Assured Destruction. Under such circumstances, one set of strategic nuclear forces does little more than deter a direct attack by another. To be sure, there are those who would like to believe these terribly murderous and destructive forces achieve other, broader objectives, but it is doubtful that they any longer do so. The best that is usually claimed for nuclear deterrence is that it "works," and that it is stable. The first of these claims is speculative—and in any event, unprovable. The fact that there has been no invasion of Western Europe is consistent with the notion that the threat of massive retaliation "worked," but does not prove that it did. Similarly, the fact that there has been no strategic nuclear bombardment by anybody since 1945 is also consistent with the idea that nuclear deterrence works, but again it simply is not possible to prove there is any causal connection.

Along with most others, I believe the current nuclear balance has been stable for some time, and that the SALT I agreements go a long way toward assuring that it will remain stable for the foreseeable future. Moreover, I believe the present balance is stable in two different ways. First, it possesses what is called "crisis stability." That is, in a military crisis, one side cannot add much to its chances of survival by striking first, and so there is no strong inducement to do so. The current nuclear balance is also reasonably stable in the "arms race" sense. That is, there does not appear to be any way for one side to achieve an overwhelming advantage over the other side by quickly acquiring any reasonable quantity of some new weapon, and so again there exists no really strong inducement to do so.

So much for what might be called "the good side" of deterrence; what is wrong with it? Simply this: If for any political or psychological or technical reason deterrence should fail, the physical, biological and social consequences would be completely out of line with any reasonable view of the national objectives of the USA or the Soviet Union. What would these consequences be? I believe the following is as accurate and detailed as is necessary and useful for any general but serious discussion of the subject. In the event of any exchange of blows by the strategic nuclear forces of the USA and the USSR, most of the urban populations of the Soviet Union and the United States could be killed, and most of the industry and commerce could be destroyed by the direct and immediate effects of the nuclear explosions. The towns and rural areas of the two countries would at the same time be subjected to varying amounts of radioactive fallout. The details of what would happen to the people living in such areas depend importantly on the weather conditions prevailing at the time and on the details of the attack pattern, but well over one-half of the town and country populations could be killed by the fallout. In addition, the living standards and the life expectancy of the survivors would be substantially reduced by secondary effects, including both the effect of less-than-lethal levels of fallout and the general breakdown of civilized services. The balance between the damage to the urban population of one side and the damage to the urban population of the other side depends somewhat, but not materially, on who strikes first. However, there is a real possibility that the rural population of the side that strikes first will end up somewhat better off.

In addition, the lives of many millions of people living in the immediate neighborhood of the superpowers would be imperiled by so-called local fallout, and long-range or world-wide fallout would endanger those living in even remote countries. It is very difficult to make precise estimates, but it seems that a full nuclear exchange between the USA and the USSR would result in the order of 10,000,000 casualties from cancer and leukemia in countries situated well away from the two main protagonists. In addition, genetic problems, that are even more difficult to calculate, would affect many, many millions of others, not only in this generation, but for centuries to come. Civilization would survive somewhere, but probably not in the United States or the Soviet Union, and perhaps not elsewhere in North America or Europe.

Some authorities have proposed that we confront these awful possibilities by undertaking huge, complex programs designed to cope directly with a massive nuclear attack. Such programs usually include the installation of a so-called thick system of antiballistic missile combined with very extensive civil defense and post-attack recovery programs. In detailed examinations, however, the main elements of such proposals have always been judged to be either technically unsound, or economically unfeasible, or socially and politically unacceptable, and so no such programs are currently underway or even being seriously considered.

In brief, for now and the foreseeable future, a nuclear exchange would result in the destruction of the two principals as nations regardless of who strikes first. This is what is usually meant by the phrase "Mutual Assured Destruction."

It is most important in any discussion about international affairs or the current military balance to have clearly in mind what the current technical situation means: the survival of the combined populations of the superpowers depends on the good will and the good sense of the separate leaderships of the superpowers. In the Soviet leadership, for whether reason, or as a result of whatever mistaken information, chose to destroy America as a nation, it is unquestionably capable of doing so in less than half an hour, and there is literally nothing we could now do to prevent it. The only thing we could do is to wreak on them an equally terrible revenge. And, of course, the situation is the same the other way around.

No one can say when deterrence will break down, or even why it will. Indeed, if the leadership of all the nuclear powers always behave in a rational and humane way, it never will. But there are now five nuclear powers, and there will be more someday, and if any of them ever makes a technical, political or military nuclear mistake for any reason, real or imagined, then there will be a substantial chance that the whole civilized world could go up in nuclear smoke. This is simply too frightful and too dangerous a way to live indefinitely; we *must* find some better form of international relationship than the current dependency on a strategy of mutual assured destruction.

Let me now turn to the matter of the size of the force currently devoted to mutual assured destruction, and to the matter of "overkill." Informed opinions about how many weapons are really needed vary over an extremely wide range. For example, shortly after leaving the post of Special Assistant to the President for National Security Affairs, McGeorge Bundy wrote, "In the real world of real political leaders—whether here or in the Soviet Union—a decision that would bring even one hydrogen bomb on one city of one's own country would be recognized in advance as a catastrophic blunder; ten bombs on ten cities would be a disaster beyond history; and a hundred bombs on a hundred cities are unthinkable."

For a very much higher estimate, we turn to some calculations made in the early 1960's. In order to quantify the question. It was assumed that "assured destruction" meant guaranteeing the deaths of 25% of the population and the destruction of a majority of its industrial capacity. From that, it was calculated that as many as 400 bombs on target might be needed.

As an intermediate estimate, we may turn to what the French and British have actually done to produce what they evidently think is a deterrent force. In each case the number of large bombs devoted to that purpose seems to be something less than one hundred.

There is, thus, a wide range of views about what is needed for deterrence. My personal view is that Bundy is right: that from one to ten are enough whenever the course of the events is being rationally determined. In the case of irrational behavior, there is no way of calculating what it would take. The case of irrational behavior is, therefore, of little interest in connection with the question of how big the deterrent force should be; rather, the matter of irrational behavior only enters into questions about when and how deterrence will fail, and about whether a policy based on deterrence is of any political value at all.

How do these estimates of need, running from a low of one to a high of 400, compare with what we actually have?

When current plans are completed, just one component of the U.S. strategic force will consist of 31 Poseidon submarines. Each submarine has 16 missiles, each missile can deliver 10 or so warheads, each to a different target. That makes 5,000 warheads altogether, and each of them is about three times as big as the one which killed about 100,000 people in Hiroshima in 1945.

In addition, we plan to retain 10 missile submarines of an older type, which deliver bigger warheads, but not so many of them. In addition to the submarine missiles are the land-based Minuteman and Titan forces, capable of delivering about 2000 warheads, ranging in size from those which are "only" ten times the size of the Hiroshima bomb up to warheads hundreds of times as big.

The third component of the "Triad" of strategic force consists of long-range bombers, mostly B-52's. The details of their capability are less well known publicly than those of the missile forces. It is known, however, that each bomber can deliver many individual weapons, including both air-to-surface missiles and free-fall bombs. The actual number and megatonnage depends more on administrative decisions than on technological limitations. It is, however, clear that the bombers can carry many more megatons than the combined sea-based and land-based missile force. All told, the total number of individual warheads in the force I have described is in excess of 10,000 and their total explosive power is about one half million times as great as the nuclear explosive power used to put the finishing touches on World War II.

By the time the Soviets complete their current round of missile deployments, they will possess a force which is in a general way comparable to ours, though differing in its details. Specifically, in the mid- and late-seventies they will end up with substantially fewer individual warheads, but with substantially more megatonnage.

If one, or ten, or maybe a few hundred bombs on target are all that are needed to deter, how did it happen that we came to possess more than 10,000? And why so much total explosive power?

These numbers are not the result of a careful calculation of the need in some specific strategic or tactical situation. They are the result of a series of historical accidents which have been rationalized after the fact.

In the late forties and early fifties, before the invention of the H-bomb, it was determined that we needed on the order of 1000 delivery vehicles (then land-based and sea-based bombers) in our strategic forces. This was determined by several factors: World

War II and the Korean experience; the need for a relatively large number of vehicles in order to develop the tactics needed to penetrate defenses with high assurance; and, probably most important of all, purely fiscal considerations during the late Truman and early Eisenhower administrations. Then suddenly when the H-bomb was perfected in 1954, the explosive power of the bombs multiplied 1000-fold. When the effectiveness of each nuclear weapon was thus so enormously increased, one might have supposed it would have resulted in a reduction in the number of delivery vehicles needed, but no such adjustment was made. In fact, since the perfection of the H-bomb was one of the technological advances that made long-range missiles practical, the H-bomb actually resulted in a proliferation of types of delivery systems, and that in turn resulted in a small increase in their total numbers. In the late sixties, further technological advances made it possible to provide each individual missile with more than ten individually targetable warheads. Again, one might have expected some adjustment in the number of delivery vehicles, but there was none; the number of land-based missiles and the number of sea-based missiles have both remained exactly the same as they were before this latest innovation was introduced. In sum, very great changes, even order-of-magnitude changes, in the technological capability of the strategic forces have resulted in no change whatsoever in their numbers.

As I remarked before, all of this has been rationalized after the fact. One method for doing so is called "worst case analysis." In such an analysis, the analyst starts with the assumption that his forces have just been subjected to a massive preemptive attack. He then makes a calculation in which he makes a series of very favorable assumptions about the attacker's equipment, knowledge and behavior, and a similar series of very unfavorable assumptions about his own forces. Such a calculation can result in an arithmetic justification for a very large force indeed, provided that we really believe there is a chance that all the many deviations from the most probable situation will go in one way for them and in the other way for us.

An additional argument for possessing many more weapons than are needed for deterrence involves a notion called "Damage Limitation." The idea is that a part of our force should be reserved for attacking and destroying those enemy weapons that for some reason were not used in his first, preemptive strike. Besides the obvious technical difficulties with such a scheme, it is counterproductive for political reasons. In today's world, the internal politics of each of the two superpowers requires them to maintain strategic forces that are roughly equal in size. That in turn means that if one side builds a large force for "damage limiting" purposes, the other side will build a roughly equal force which will inevitably be "damaging producing." Such a chain of events obviously leads from bad to worse. Furthermore, the kind of forces needed for this so-called "damaging limiting" role are technologically identical to those needed for a first strike, and so such a strategy is obviously dangerous for that reason also.

In brief then, even if we accept for the time being the need for a policy of deterrence through mutual assured destruction, the forces now in being are enormously greater than are needed for that purpose. And again, if we recognize that deterrence can fail, and if we admit to ourselves the consequences of such a failure, then we see that greatly reducing the current degree of overkill is both possible and essential.

Before making some specific recommendations about what should be done, I shall first discuss one particular alternative proposal sometimes put forth as a means for improving the current dreadful situation. In that proposal the current deterrence policy, in which populations and industries are the key targets, would be replaced by a policy in which only weapons and military centers are targets. At first glance, it seems that such a policy would be more humane in some useful sense. As a result, such proposals have frequently arisen; the best known being the "counterforce" proposal made by Secretary McNamara at a NATO meeting in 1962. However, the idea has several flaws. First of all, such counterforce strategies, as they are called, always turn out to require, or at least justify, many more and generally larger weapons than are needed for the so-called counter-value, or deterrence strategy. In such a case, a failure in deterrence would generally result in many more deaths, especially in third countries, than would be the case for a force sized for deterrence only. This comes about partly due to an increase in collateral damage through fallout, and also because of the colocation of so many military targets with urban targets such as the military command posts in Washington, Omaha, and Moscow; the transportation centers in St. Louis, Chicago, Kharkov and Kiev; the naval bases at New York, Boston, San Diego, Los Angeles, Leningrad, Sevastopol and Vladivostock, and so on.

Moreover, a policy to target only military installations would only be an administrative arrangement; it would not rely on anything intrinsic in the equipment. Hence such a policy, agreed to internationally or not, could be abandoned or abrogated on short notice, after first being used to justify a substantial increase in force levels. For these reasons, I believe the proposals for improving the present situation by going to a counterforce strategy are among the most dangerous proposals I know.

How might we, then, go about reducing the great overkill inherent in the present Soviet and U.S. forces without at the same time affecting the style and stability of the nuclear deterrence strategy? Recalling that the local fallout from a nuclear exchange can cause the death of more than half of the town and rural populations of the two superpowers, and that the world-wide fallout from nuclear exchange will result in the death of many millions of people in third countries, and noting that fallout is essentially proportional to megatonnage, we see we ought to start by getting rid of those elements of the force that deliver the most megatons. In each case, roughly 20% of the forces carry roughly 80% of the megatons. In the U.S. case, these are the several hundred long-range bombers and the 54 Titan missiles. In the Soviet case, there are the 300 very large SS-9 missiles plus a relatively small intercontinental bomber force. Ridding the world of all these weapons and, of course, prohibiting their replacement by newer versions, would decrease substantially the threat to the rural populations of the two protagonists. It would also reduce the danger to residents of innocent countries five-fold. At the same time, their simultaneous elimination of these weapons through negotiation or, I would venture to say, even their unilateral elimination by one or both sides, would have little effect on the deterrent posture of either side.

There is another area where it should be easy to achieve a further two-fold reduction in potential fallout. Only one-half of our Minutemen are being converted to the new Minuteman III, and only 31 of our 41 Polaris boats are being converted to Poseidons. Simply abandoning the not-to-be converted residuals of these forces would eliminate about one-half the fallout potential of our missile forces. And precisely because these older weapons are less capable, their complete elimination would have only a marginal effect on our ability to deter. Similarly, we may be confident the Soviets also have some obsolescent weapons they could get rid of at the same time in order to keep things in formal balance. And beyond the elimination of these excessively murderous and obsolescent vehicles, we might also consider placing an upper limit on the explosive power of those remaining. For instance, we might set an upper limit in power equal to that of the Hiroshima bomb. The many thousands of bombs that would still remain in the strategic forces, even after the reductions I have suggested, would still seem to be many more than enough for deterrence through mutual assured destruction, even if each bomb were so limited in power.

The overkill capacity in the present forces is so large that even the rather substantial reductions I have suggested would not do much to the threat hanging over the inhabitants of the larger cities; most of them would still be killed in the event of a breakdown of deterrence. But, since there would be big decreases in death and destruction in rural areas and small towns, the prospects for some sort of national survival would be much improved. Perhaps most important, the number of deaths and the amount of genetic damage in innocent countries would be reduced more than ten-fold. And whether or not one believes the leadership of a nation has the right to place all of its own citizens at risk, it surely does not have that right with regard to third parties.

In the real world, admittedly these specific arms reduction suggestions are clearly too much for the short term and too little for the long term.

The short-term objectives, as embodied in the SALT negotiations, are largely devoted to stopping the technological arms race, and real reductions in arms have been relegated to the future.

The long-term objective, as attested to on several solemn occasions by Presidents Kennedy, Johnson and Nixon, and by Chairmen Khrushchev and Brezhnev, are general and complete disarmament. Leaving aside the question of the feasibility of their ultimate objectives, we must even so note that my suggestions are very modest by comparison.

These particular suggestions, then, are meant for the intermediate term, say the next five or ten years. They are for the period after we finally succeed in fully arresting the forward momentum of arms development and deployment but before the final arrival of the conditions necessary for "General and Complete Disarmament."

So far, after almost thirty years of attempts to achieve some kind of serious disarmament, not one single nuclear weapon has even been destroyed or even moved as a result of an agreement to do so. That record could lead to a feeling of utter hopelessness, or it could lead to a renewed determination to accomplish something at long last. Let us try to make it the latter.

Mr. HART. Mr. President, as always, I am dismayed at the enormous sums of money which our Government feels compelled to commit to the defense of our national security. A sum of $73 billion is staggering, although I commend the Senate Appropriations Committee for cutting nearly $1 billion from the House figure. For years, I have been concerned that our priorities for spending demonstrate an overbred concern for the safety, and not the welfare, of our citizens.

For the first time in years, we are not engaged in any military action. I fervently hope that we will continue to be in relative harmony with the rest of the world. I also hope that disarmament negotiations will proceed rapidly. Both of these developments should lead to a more peaceful world, and should also reduce the pressures for military spending in our national budget.

Yet, I recognize that, for the present, we cannot ignore the role of force in the world and the necessity for military readiness on our part. Therefore, my approach to military appropriations has always been that we should pare down—but only to the extent that is not realistically jeopardizing our own defenses.

It is not always easy to apply this standard. Legitimate and, at times, emotional arguments are made on both sides of any defense expenditure. It is sometimes difficult to separate the truly valid claims from the self-serving declarations of the "military-industrial" complex, whose influence was decried by President Eisenhower.

It is especially difficult to make such decisions when they affect an area close to home. One minor item in the Defense budget for 1974 has caused a great deal of concern in Michigan. That is Project Sanguine, a subterranean transmission system designed to communicate alert and other short messages to submarines below the surface. The Navy initiated this project at least 10 years ago claiming that the system was superior to existing or alternative communications schemes because of the ability of low frequency waves to travel to submarines without requiring them to surface and because of an asserted superior invulnerability to nuclear attack.

However, environmentalists have raised serious questions about the ecological effects of such an extensive underground electric system. These questions have not been answered. As a consequence, wherever the Navy has attempted to locate Sanguine, local residents have become alarmed. First, Wisconsin was eliminated as a site. Texas was then proposed with the upper peninsula of Michigan as an additional possibility. Citizens' groups in each place have raised a number of searing questions, related both to environmental and energy impact of the project and its military necessity.

In response to these objections, the House Appropriations Committee, after a series of hearings, voted to terminate the funds for Project Sanguine. Its report noted that:

At the present time there are six operational communication systems which can be used to communicate with submerged submarines. Other newsystems, apart from Sanguine, are under development. It is recommended that these systems be developed rather than the Sanguine system. It would appear that the number of systems in being and under development provide sufficient redundancy for reliable submarine communication—The Navy would be well advised to pursue other means of communicating with submerged submarines which do not involve the political and technical difficulties which beset Sanguine.

It is with regret, then, that I discovered that the Senate Appropriations Committee had restored the funds for Sanguine in its entirety. I do not sit on either committee and make no claim to special expertise in questions of alternative military communications systems. Nevertheless, I was delighted at the House committee action, and hoped that the Senate would follow suit.

It is my personal inclination to vote against any further funds for Sanguine on the strength of the House report and the serious questions raised about the effect of the project. I am concerned that approval of the Defense bill might indicate a wholehearted endorsement of the Sanguine project. I would like the record to show that this is not the case. It is my understanding that the Senate Appropriations Committee has restored the funds for Project Sanguine only for research purposes, and that no final approval is indicated by its move. An unfortunate "streamroller" effect often develops around military systems. We must avoid that here, and I would respectfully urge the conferees on this bill to reexamine the position of the House committee, with an eye at least to eliminating funds for model development.

RADIO AND TELEVISION ADVERTISING FOR THE VOLUNTEER ARMY

Mr. SCHWEIKER. Mr. President, the report of the Senate Appropriations Committee accompanying H.R. 11575, the fiscal year 1974 appropriations bill for the Department of Defense, includes the following language:

All effective methods of advertising for recruitment purposes should be used including an equitable allocation between the broadcasting and printed media.

The purpose of this committee report language, which I proposed, is to clarify congressional intent that all media, including radio and television, be available to the Department of Defense and the individual services for the purpose of recruitment for military personnel. It makes absolutely no sense to adopt an All Volunteer Army and then cut the military services off from such an effective way to reach potential recruits as paid prime time radio and television advertising. By saying "all effective methods of advertising," we are indicating that paid radio and television advertising time for recruitment purposes should be available to the military services, just as paid advertising in the print media is available.

The report language I proposed on this subject is particularly important because of confusion that exists concerning the subject of paid radio and television ads for recruitment, and specifically for the Volunteer Army.

During hearings by the Defense Subcommittee of the House Appropriations Committee this year on the defense budget for fiscal year 1974, specific testimony about a congressional prohibition of radio and television recruitment advertising was mentioned. On June 6, 1973, Lt. Gen. Bernard W. Rogers, Deputy Chief of Staff of the Army for Personnel, made the following comments:

Fiscal year 1972 legislation expressly prohibited the use of recruiting advertising funds for the purchase of broadcast time. The Army, therefore, as well as the other services relied entirely on time made available by broadcasters on a public service basis for any exposure on these media.

Although there is currently no restrictive language in the fiscal year 1973 appropriations bill, we have interpreted the fiscal year 1972 legislation as expressing the sense of Congress and did not program funds for the purchase of broadcast time during fiscal year 1973 and fiscal year 1974. . . .

I do believe, however, that if we were permitted to use prime time broadcast advertising on a paid basis, we could greatly improve the cost effectiveness of our overall advertising program.

Last year, during consideration of the military recruitment authorization bill for fiscal year 1973, H.R. 15995, I introduced the following amendment to clear up any confusion that might have existed about the ability of the services to choose any media they thought would be most effective for their recruitment advertising purposes:

SEC. 604. In order that all appropriate means may be available to the Department of Defense in furthering its efforts to achieve an all volunteer military force at the earliest practicable date, nothing in this or any other Act shall be construed as prohibiting any branch of the Armed Forces of the United States from expending funds for the purpose of advertising in any type of news media, if the purpose of such advertising is to attract eligible persons to enlist or accept commissions in such Armed Forces and the funds used to pay for such advertising were appropriated for recruiting or advertising purposes.

The Senate Armed Services Committee, and the full Senate, adopted this amendment, but it was deleted by the House-Senate conference on the bill because it was deemed unnecessary. The conference report for that 1973 authorization bill (Rept. 92–1388) made the following statement:

Elimination of prohibition on recruitment advertising

The Senate bill contained a provision (section 604) providing that nothing in this or any other act shall be construed as prohibiting use of any media for the purpose of recruitment advertising.

The House bill contained no comparable provision.

The House conferees opposed the provision as they did not see the necessity for elimination of a prohibition which is presently nonexistent.

If the House and Senate Armed Services Committees state that there is no prohibition of paid radio and television advertising, then there should be no reason why the Defense Department, and the individual services, should have to defer any budget requests for paid radio and television advertising because of a so-called sense of the Congress prohibition, that in fact no longer exists.

The problem concerning congressional intent on the subject began in 1972, in the Defense Department appropriations bill for fiscal year 1972. It will be helpful in clarifying this issue to recite the history of this appropriation bill.

In fiscal year 1971, the Army budget included $10.6 million for radio and television advertisements for the volunteer army. The fiscal year 1972 budget request included a request for an additional $9 million for radio and television advertising for the volunteer army. The House agreed to this additional item, but the Senate rejected it. According to the conference report on this fiscal year 1972 appropriations bill (Rept. 92–754) "the conferees agree to restore $4,500,000

of these funds." However, the conference report went on to make the following statement:

"The conferees direct that no funds be used for paid television and radio advertisements."

It is clear that this "no funds" statement is considerably broader than the $9 million additional item request that was a subject of conference review. This statement that a blanket prohibition of the use of any funds whatsoever for paid television and radio advertisements, was not confined simply to the $9 million additional item under consideration. And it was unnoticed, I daresay, by nearly all Members of Congress and, therefore, had the effect of congressional intent for fiscal year 1972.

No similar prohibitory language was contained in the fiscal year 1973 appropriations bill. In addition, it was specifically to remove the unwise effects of the 1972 prohibitive appropriations language that I introduced my amendment to the fiscal year 1973 authorization bill. The fact that my 1973 amendment was rejected as unnecessary indicated to me that the military was once again free to develop its most effective military recruitment advertising program, free of any such discriminatory prohibition.

Therefore, I am pleased that the Senate Appropriations Committee this week is accepting my language expressing our endorsement for all advertising chosen by the military.

Unfortunately, as General Rogers testified, uncertainties over congressional intent, still exist, and there were no budget requests for television and radio advertising for fiscal year 1974. I would hope that those services, particularly the Army, that desire to use paid radio and television advertising, would take steps quickly to include these items in their budgets for the current fiscal year 1974, and I am confident that the intent of Congress would be in support of their efforts.

Paid radio and television recruitment ads can enable the services to target specific recruitment appeals in specific areas of the country during prime time hours. It is clearly an effective means of getting the all volunteer message to potential enlistees, and I can think of no good reason to arbitrarily preclude these ads.

Such a policy of cutting off the potential paid prime time radio and television ads is particularly senseless in view of our commitment to an All-Volunteer Army. In the House Appropriations Committee report on the current appropriations bill, criticism was made of the success of the All-Volunteer Army. The committee expressed concern about the All-Volunteer Army concept, but specifically said that the program should be continued at least 1 more year. The committee report language is as follows:

In addressing the fiscal year 1974 budget request of the Department of Defense, the Committee discussed the all-volunteer force concept at considerable length and concluded that the program should be supported for at least one more year. This decision was made despite considerable doubts on the long range effect of the all-volunteer force concept on America's military posture.

Next year will be a critical test for the All-Volunteer Army, and it is backward in my view to prohibit recruitment efforts, such as paid radio and television advertising, that can be effective in helping to make the All-Volunteer Army a success. Although the House Committee report indicated that paid radio and television advertising could make the overall advertising program more effective, the House report also discussed development of a plan "which allocated the funds in an agreeable manner between and among the competing media networks and the radio stations, et cetera." This should not be construed as expressing congressional intent to wait until fiscal year 1975 for implementation of paid radio and television advertising, because the critical 1-year evaluation period for the Volunteer Army will be over by then. Therefore, it is essential for budgetary decisions regarding paid radio and television advertising to be implemented immediately by the services and by the appropriate congressional committee.

Furthermore, apart from the benefits of an All-Volunteer Army, the 1972 committee report ban on radio and television advertising is an arbitrary, discriminatory provision that Congress should not in any way continue. The broadcast media are clearly an effective advertising medium, and should be available for utilization by those services that desire it. There is no reason for Congress to single out the broadcast media for discriminatory treatment, and to deny the flexibility to the military services to utilize broadcast media advertising if they choose to.

It may be argued that paid radio and television advertising is not necessary because of the availability of public service advertising for the All-Volunteer Army. Although this would not solve the serious problem of discrimination against the broadcast media, I do not think we should kid ourselves and think that public service advertising would be enough.

In the first place, public service time is subject to increasing competition by agencies at all levels of government, with justifiable causes, and nongovernmental organizations as well. This fact alone precludes the availability of sufficient broadcast advertising time.

Second, public service time cannot be effectively organized to reach the greatest possible target audience, desired portions of that audience, at the best possible times, or even to give a coherent, organized message. We know from studies that certain times of the year, such as spring, just before high school graduation, are the most effective times for recruiting. We must permit the military to spend their recruiting dollar to take advantage of this fact.

We know, of course, that certain times of the day are best for reaching the target audience. Public service time is all too often available only when the audience is comprised of children, or some comparable group. The ability to purchase broadcast time would also solve this problem.

We know, furthermore, that dependence on public service does not allow us to effectively focus upon specific regional markets, it does not permit us to effectively make public important changes or innovations, such as pay increases, which would have a great bearing on recruitment, and finally, it does not permit a coordinated advertising campaign that tells a comprehensive story, since the availability of time is fragmented and unpredictable.

Paid radio and television advertising, on the other hand, provides the necessary flexibility to allow the military to maximize its message, particularly through the use of advertisements on local radio and television stations, where specific messages can be delivered to specific communities.

I support the benefits of public service ads, and would expect that broadcast stations would continue to utilize them even when paid, prime time advertisements are being aired on radio and television. We will want public service ads to continue, but I do not think that we will be maximizing the potential for successful recruiting for the all-volunteer Army if we do not also utilize paid advertisements.

In addition, this prohibition is extremely unfair to the broadcast industry and unnecessarily singles out that segment of the media for discriminatory treatment. The freedom to expend authorized advertising funds — approximately $52 million in the fiscal year 1973 budget—for broadcast advertising is essential to permit the Defense Department to maximize the effectiveness and efficiency of its recruiting dollar.

Radio and television advertising is an effective means of reaching the men in the particular age group we are aiming at. In the spring of 1971, the Stanford Research Institute conducted a survey entitled "Effectiveness of the Modern Volunteer Army Programs." The major findings of the study as to the impact of the Army's experimental paid radio and television advertising campaign were as follows:

First, it was very effective in increasing awareness of Army advertising among young male Americans without prior military service;

Second, it was effective in motivating some of these young men to the action represented by making personal inquiry about the Army service for themselves;

Third, it was accompanied by increases in levels of Army enlistments beyond those that past enlistment trends would indicate; and

Fourth, it was accompanied by more pronounced increases in levels of Army enlistments in the geographic section of the United States where the advertising was most intensified.

An additional study conducted by the Gallup group found that—

There is an advantage of approximately 18 to 1 for paid broadcasting over public service broadcasting against men between the ages of 18 and 34. Most public service programming "does not reach young men" in this particular age group.

Further evidence can be found in a nationwide test conducted during a 13-week period in the spring of 1971. The use of paid radio and television advertis-

ing during prime time produced the following results in the 17- to 20-age group:

Awareness of advertising increased by 118 percent;

Overall Army enlistments increased by 13 percent;

True volunteer enlistments increased by 28 percent;

Delayed entry Army enlistments increased by 95 percent;

Army enlistments of 17- to 18-year-olds increased by 35 percent;

Combat arms enlistments increased by 702 percent;

Air Force enlistments increased by 55 percent;

Marine Corps enlistments increased by 71 percent; and

Navy enlistments declined by only 14 percent.

In sum, Mr. President, allowing paid advertisements on the broadcast media will enhance the recruiting effectiveness for the All-Volunteer Army, provide full recruiting options for those services that desire to utilize more effective paid advertisements, will not affect the public service announcement program, will guarantee equal opportunities among all media, and will eliminate arbitrary discrimination against the broadcast media.

In my view, the Senate Appropriations Committee report language is quite clear in paving the way for Defense Department budget expenditures for this program, if the services desire it, and I hope that these efforts can help us to realize the goals of the All-Volunteer Army.

Mr. HOLLINGS. Mr. President, I have discussed the matter of procurement of utility aircraft by the Army and Air Force with my friend and colleague on the House side, Congressman MENDEL DAVIS. As a member of the House Armed Services Committee, he has been actively involved in this question and he was able to refresh my memory to the facts surrounding this request. I recall, too, the comments of another friend and colleague, the late Senator Allen Ellender. After determning that the request was for turboprop utility aircraft and specifying that fact throughout the fiscal year 1972 authorization and appropriation process, I recall Senator Ellender's complaining that the service must not understand the English language and that if we could not trust them on the little things, how in the world could we trust them on the big multimillion or billion dollar requests.

For over 2 years, the services have wanted to purchase utility aircraft. Turboprop craft were the type that they have requested, the type that the Armed Services Committee twice authorized and that the Senate Appropriations Committee now funds for the second time. Yet the turbo-fan—jet—interests are still alive and well, saying that in the interest of fairness and economy no one should be denied a shot at the contract.

But let us look at the facts, Mr. President. They speak for themselves.

In fiscal year 1973 the Air Force requested $8.4 million to purchase 14CX-X aircraft. And the Army had a request for 20 similar aircraft. The authorization bill approved the requests but directed the services to jointly procure the aircraft.

During the appropriations hearings, the late Senator Ellender, who was then chairman of the Appropriations Committee, asked the Air Force witness whether these were jets. The witness, Lt. Gen. Otto J. Glasser, responded:

> No, Sir; these are small aircraft, turboprop aircraft.

Senate Hearings, Department of Defense Appropriations, fiscal year 1973, part 4, February 18, 1972, page 530. Both the Army and Air Force requests were in the enacted bill.

It was understood by everyone familiar with the situation that the services had asked for, and the Congress had approved, the purchase of turbo-prop, not turbo-fan—jet—aircraft.

On January 20, 1973, the Secretary of the Army announced the cancellation of the proposed U-X/CX-X utility aircraft procurement solicitation. He cited three reasons for the cancellation, any one of which would be sufficient to require cancellation. These reasons were:

First. The Army during the fiscal year 1972 budget hearings continuously represented to the Congress that it required and intended to procure a turbo-prop U-21F-type aircraft. The reports of both the House and Senate Armed Services Committees make this abundantly clear. To alter this position at this time and to attempt to procure a jet aircraft seriously and adversely reflects upon the Army's credibility with the Congress. This cannot be permitted. We believe that the Congress has a right to rely upon the accuracy of the information they are furnished by the Army; and the Army in turn has an obligation to act in accordance with the advice furnished to the Congress.

Second. Further, it was not clear that the Army had completely justified the requirements for a jet aircraft. Many of the Army's missions can be adequately accomplished with a turbo-prop aircraft of the U-21 type. Consequently, it was determined that the Army may have overspecified its requirements with the result that it was proposing to pay for added performance not necessary to accomplish its defined mission.

Third. Additionally, despite the fact that a final decision on the award and contract had not been made, specific details as to the evaluation and ranking of the various offerors were known in several quarters. Although it is unclear how this information became known, its release clearly affects the integrity of the procurement process and permits questions as to the validity of the source selection authority itself. This may not be permitted. The source selection process cannot be compromised. It must be completely free from even the slightest question or doubt as to its objectivity. Whenever information of this nature becomes compromised the Army must act positively and promptly to remedy the situation—including cancellation of the competition.

The House Armed Services Committee inquired into the matter again this year during its fiscal year 1974 authorization hearings and in their report, House Report 93-383 at page 32 they stated:

> During the hearings the Army in their FY74 request for 20 additional aircraft . . . again justified a turboprop-type aircraft to the satisfaction of the Committee and the Committee recommends approval of the Army request.

Noting that the services had not utilized the previous year's authorization, the conference committee report stated:

> The failure of the Army to utilize this authority was the result of the inability of the Army and Air Force to enter into a common procurement of a single aircraft as directed by the House-Senate conferees on H.R. 15495, the fiscal year 1973 authorization legislation, Public Law 92-436.
>
> The House conferees, after considerable discussion, receded from the House position and agreed to deny the Army its request for additional aircraft in fiscal year 1974. However, with respect to the twenty utility aircraft of the Army and the fourteen utility aircraft of the Air Force approved by the Congress for fiscal year 1973, the Conference Committee directs that the Army and Air Force enter into a joint procurement for these thirty-four aircraft; *that the bid proposals be limited to turbo-prop aircraft only;* and that the performance requirements of the selected aircraft be such so as to satisfy the needs of both the Army and the Air Force." (Emphasis added.)

Hence, in light of all that had transpired, it came as a great shock when the House Appropriations Committee ignored all that had transpired by stating in their report that—

> The fiscal year buy of utility aircraft proceed on the basis of the understanding had by this committee last year, and that the specifications be written and the request for proposals specify that the aircraft to be procured may be powered either by turboprop or turbofan engines, so that all qualified aircraft manufacturers may have an opportunity to bid on this procurement.

Mr. President, wisely the Senate committee has reversed the other body's action. To include jet aircraft in this procurement just does not make sense. Senators STENNIS and ELLENDER were the first to see this fact and get us on the right track. Now we must stay on this course.

Now that we are in the throes of a serious energy crisis, this decision is even more sensible. From the standpoint of fuel economy, the turboprop uses 100 gallons less fuel on every 1,000-mile mission. Further, the shorter the distance the greater the savings; for example, on a 400-mile trip which is the average distance for the CX-X/UX mission, the jet would average 177 gallons per hour as compared to 85 gallons per hour for the turboprops, or over twice as much—100-percent-plus—fuel.

Jet proponents argue that to limit procurement to turboprop aircraft would unduly restrict competition. This is not true and was addressed by the Army in its fiscal year 1974 testimony before the House Appropriations Committee:

> General OLENCHUK. I would say, sir, there is a reasonable scope of competition.

The witness cited four craft that could be considered: Beechcraft U-21F, Beechcraft Super 100, Fairchild-Sweringen Merlin III, Piper, and North American Rockwell.

From the standpoint of mission requirements, the turboprop is far better than the jet. For example, the leading turboprops:

First. Have almost double the cabin volume.

Second. Are capable of carrying cargo—engines, gasoline, rations for resupply, and so forth.

Third. Can drop supplies and paratroops.

Fourth. Can provide medical evacuation—litter patients.

Fifth. Have all baggage accessible from inside.

Sixth. Can satisfy aerial platform requirements for all Army Security Agency electronic warfare requirements. Of the total procurement of turboprop aircraft in the Army inventory to date, approximately 30 percent or 80 aircraft have been allocated to support this mission.

Because of the small cabin door, limited cabin volume, and the proximity of the cabin door in front of the wing, the small jet is not capable of supporting these mission requirements. This small jet would be like a "duck out of water" in a hostile environment such as Vietnam. Certainly the aircraft selected to support the CX-X/UX mission must provide a greater capability than an air taxi for generals.

Going back to the 1972 testimony, the "CX-X, a small turboprop, can accomplish all tasks required—operate from small, unimproved fields, irrespective of the altitude and assure safe flight over high air route structures." Let us not lose sight of the purposes and the mission of this craft. Let us stick to our guns and keep faith with the taxpayer.

I feel strongly that the Senate should support the language in the Armed Service Joint Conference report and in the Appropriations Committee report, restricting the procurement to turboprop aircraft that are totally capable of supporting the mission requirements. The services can then get on with the procurement of their aircraft.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

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

The bill (H.R. 11575) was read the third time.

Mr. McCLELLAN. Mr. President, I thank my colleagues for helping us to expedite consideration of the bill.

Mr. PASTORE. Mr. President, may we have order in the Senate? If compliments are being paid, we ought to hear them.

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. McCLELLAN. Mr. President, I would like to announce that on the floor here this afternoon there has been added to the bill as reported by the Senate Appropriations Committee a total of $28,950,000.

Mr. President, with that addition the total amount of the bill is still $3,986,096,000 under the budget. It is also $836,682,000 under the House bill.

So I hope that we have made a record here of trying to be conservative and trying to be economical, particularly with respect to military spending.

The PRESIDING OFFICER (Mr. HUDDLESTON). The question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from New Hampshire (Mr. McINTYRE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. McCLURE) is absent on official business.

The result was announced—yeas 89, nays 2, as follows:

[No. 581 Leg.]

YEAS—89

Abourezk	Fannin	Muskie
Aiken	Fong	Nelson
Allen	Fulbright	Nunn
Baker	Goldwater	Packwood
Bartlett	Gravel	Pastore
Beall	Griffin	Pearson
Bellmon	Gurney	Pell
Bentsen	Hansen	Percy
Bible	Hart	Proxmire
Biden	Hartke	Randolph
Brock	Haskell	Ribicoff
Brooke	Hathaway	Roth
Buckley	Helms	Schweiker
Burdick	Hollings	Scott, Hugh
Byrd, Harry F., Jr.	Hruska	Scott, William L.
Byrd, Robert C.	Huddleston	Sparkman
Cannon	Hughes	Stafford
Case	Humphrey	Stennis
Chiles	Jackson	Stevens
Clark	Javits	Stevenson
Cook	Kennedy	Taft
Cotton	Long	Talmadge
Cranston	Magnuson	Thurmond
Curtis	Mathias	Tower
Dole	McClellan	Tunney
Domenici	McGee	Weicker
Dominick	McGovern	Williams
Eagleton	Metcalf	Young
Eastland	Mondale	
Ervin	Montoya	
	Moss	

NAYS—2

Hatfield	Mansfield

NOT VOTING—9

Bayh	Inouye	McIntyre
Bennett	Johnston	Saxbe
Church	McClure	Symington

So the bill (H.R. 11575) was passed.

Mr. McCLELLAN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. McCLELLAN, Mr. STENNIS, Mr. PASTORE, Mr. MAGNUSON, Mr. MANSFIELD, Mr. SYMINGTON, Mr. YOUNG, Mr. HRUSKA, Mr. COTTON, and Mr. CASE conferees on the part of the Senate.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that Senators INOUYE and SCHWEIKER be added as conferees on the supplemental appropriation bill.

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

QUORUM CALL

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

The PRESIDING OFFICER (Mr. HART). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ALLOCATION OF FUEL TO SCHOOL-BUSES

Mr. HARRY F. BYRD, JR. Mr. President, I have been informed that the House of Representatives today adopted an amendment to prohibit the allocation of fuel to school buses which bus students past their neighborhood schools.

Mr. President, this amendment was offered by the distinguished Representative from Michigan (Mr. DINGELL). I note that the distinguished Senator from Michigan (Mr. HART) is now occupying the Chair at the present time.

The legislation adopted by the House today is similar in language to the amendment which was offered to the Senate by the distinguished Senator from North Carolina (Mr. HELMS).

The vote on the amendment passed by the House today, I am informed, was 221 to 192. I believe that is very significant.

I am very proud of my association in the Senate. I am very proud to be a Member of the Senate. But I believe that the House more nearly represents the thinking of the people of this Nation when it adopted this amendment today than the Senate did when, by a one-vote margin, it voted to table the amendment of the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.). I am very proud of the action taken by the House. As has been stated by the Senator from Virginia, I believe that vote more nearly represents

the views of the people of the country than does the vote of the Senate, which rejected the proposal by one vote.

Mr. BROCK. Mr. President, I wish to join the distinguished Senator from North Carolina (Mr. HELMS) in expressing gratitude for the leadership of the Senator from Virginia in this matter.

I think the House has again demonstrated that it is the people's voice. I may say to the Senate that it is well past time that this body reflected the mood, the spirit, and the desire of the American people.

The Senator from North Carolina (Mr. HELMS) and I joined in offering an amendment some 2 weeks ago. The amendment was defeated. The Senator from North Carolina is continuing his fight, as he always has, to bring this matter before the Senate. He offered a further amendment on Monday, last, as I recall. That amendment was tabled by a majority of one vote.

I hope that the action of the House today will encourage Members of this body who go to conference to accept not only the expressed desire of the American people, an overwhelming majority of the American people, both black and white, but also the desire of those of us who have worked long and hard for full equality and equal opportunity for all children of this country, both black and white.

I join in expressing my gratitude to my former colleagues in the other body, and I thank the Senator for this time.

LEGAL SERVICES

Mr. JAVITS. Mr. President, I wish to ask the leadership whether it is the intention to call up the legal services bill, which is next in line on the second track. I have asked the distinguished Senator from North Carolina (Mr. HELMS) whether he has any wish to debate the matter tonight. I have no requests for speakers on the affirmative side, but that is natural, as we think we have put in our argument.

If the leadership will advise us, I would also hope that the Senator from North Carolina might see fit to advise us, as well.

Mr. ROBERT C. BYRD. Mr. President, in view of the fact that there will be a vote on the motion to invoke cloture on the legal services bill tomorrow, it was not the intention of the leadership to call up the bill tonight, unless Senators wish to discuss it. The leadership is perfectly willing to call it up if any Senator wishes to address himself to it. Otherwise, the leadership would not call it up.

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

Mr. JAVITS. I yield.

Mr. HELMS. I see no point in delaying the departure of this body tonight or, for that matter, for the holiday season. Just about all has been said that could be said pro and con. The Senator from North Carolina in no way wants to delay the deliberations of the Senate.

I do wish that my colleagues would give earnest consideration to recommitting this bill to the Committee on the Judiciary, so that some hearings can be held, such hearings not having been held at all at any time this year. It is a completely new bill.

If this could be agreed upon by the leadership and by my friend, the distinguished Senator from New York, this whole controversy could be resolved, and we could go home with a relative degree of happiness, to face whatever consequences we will face when we get there.

Mr. JAVITS. I thank the Senator.

It seems that the Senator similarly has no request for speakers tonight.

As to his point in chief, that he would like to see this matter put over, we would not. We do not feel that that is desirable or necessary. We feel that bringing legal services in an effective manner to those who need them the most, to whom they restore the greatest dignity, is entitled to the highest priority; and within the bounds of possibility, we intend to proceed with the issue.

So I might inform the leadership that, so far as obviously we are concerned, there will be no further debate tonight on this matter.

Mr. HELMS. I agree, Mr. President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

HALE BOGGS FEDERAL BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2178.

The PRESIDING OFFICER (Mr. HART) laid before the Senate the amendment of the House of Representatives to the bill (S. 2178) to name the U.S. courthouse and Federal office building under construction in New Orleans, La., as the "Hale Boggs Federal Building," and for other purposes, which was to strike out all after the enacting clause, and insert:

That the United States courthouse and Federal office building now under construction at the corner of Camp Street, bounded by Poydras Street, Lafayette Street, and Magazine Street, New Orleans, Louisiana, shall hereafter be known and designated as the "Hale Boggs Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Hale Boggs Federal Building".

SEC. 2. The first sentence of section 25 of the Dwight D. Eisenhower Memorial Bicentennial Civil Center Act (Public Law 92-520) is amended by striking out "System Facilities Development Foundation at 101 West Ninth Street," and inserting in lieu thereof the following: "Systems Data Center facility in Minnehaha County near".

SEC. 3. Section 11 of the Dwight D. Eisenhower Memorial Bicentennial Civil Center Act (Public Law 92-520) is hereby repealed.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after Mr. BENTSEN is recognized, there be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with statements therein limited to 3 minutes.

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

ORDER FOR TIME TO BEGIN RUNNING ON THE MOTION TO INVOKE CLOTURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 10:30 a.m. tomorrow, the 1 hour under rule XXII begin running on the motion to invoke cloture on the legal services bill.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the motion to invoke cloture tomorrow be divided equally between Mr. HELMS and Mr. NELSON.

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

PROGRAM

(The following statement of the program and ensuing discussion, which occurred earlier, just prior to the vote on final passage of the Defense Department appropriation bill, is printed at this point in the RECORD by unanimous consent.)

Mr. GRIFFIN. Mr. President, while we have so many Senators on the floor, I wonder if I could ask the majority leader if he could enlighten us to where we go from here this week and any information about next week.

Mr. PASTORE. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD Mr. President, in response to the question raised by the acting Republican leader—and I am sure that all Members of the Senate are interested—we will have a cloture vote tomorrow on the legal services bill at either 11 or 12 o'clock.

It had been anticipated that we would take up tomorrow H.R. 8449, the national flood insurance program bill. However, we will take it up on Monday instead.

We are looking at the possibility of taking up H.R. 8547, an amendment to the Export Administration Act of 1969,

and are hoping that the distinguished Senator from Alabama (Mr. SPARKMAN) will be able to work out some type of time arrangement.

We will take up the "Walk a Mile for Your Health Day" measure tomorrow. That ought to take about 15 seconds to dispose of.

We are looking into the possibility—and I see the Senator from North Carolina (Mr. ERVIN) on the floor—of seeing if something could be done on S. 2432 and Senate Concurrent Resolution 30, both of which were reported out of the Government Operations Committee.

There is also a bill out of the Committee on Agriculture and Forestry, S. 2150, having to do with the taxability of dividends received by a cooperative and so forth.

There will be three bills from the Public Works Committee, which the Senate will hopefully take up tomorrow. One related to the energy situation has to do with highway speed limits.

Could the Senator from West Virginia tell us what the other bills cover?

Mr. RANDOLPH. Mr. President, one involves the allocation of waste treatment funds authorized for fiscal year 1975. The apportionment of money among the States is by law required to be made by January 1, 1974. The other is S. 1776, as amended by the House. It extends training programs; contains language similar to Senate Joint Resolution 158 which dealt with the subject of reimbursement to States for waste treatment facilities built between 1966 and 1972; and grants authority to the National Waste Quality Commission to enter into a contract to employ an executive director.

I would want to comment on the bill to establish a uniform maximum highway speed limit which we hope will come before the Senate. We hope that bill entitled "The Emergency Highway Energy Conservation Act" will be considered by the Senate tomorrow. Its enactment will result in substantial fuel savings and I believe markedly improved highway safety.

Mr. MANSFIELD. Mr. President, we hope that all three will come before the Senate.

Also, there is the matter of the aluminum penny. Copper is going out.

Copper is going out; it is getting too expensive. But the Committee on Banking and Currency unanimously reported out a bill today which will substitute aluminum for copper in making pennies—big news.

On Monday, the time has not been decided yet, but probably around 1 o'clock, the Senate will take up the nomination of our friend and colleague, WILLIAM SAXBE, to be the next Attorney General of the United States.

We hope to get out no later than next Friday or next Saturday, the 21st or the 22d; but I want to assure our western colleagues we will make every effort to get out ahead of that time if it is at all possible, so that it will be possible for them to get home when their tickets are validated.

Mr. PASTORE. Mr. President, for reasons that are quite obvious, is it possible that we may have a vote on the cloture motion tomorrow, and nail it down?

Mr. MANSFIELD. It is quite possible, but I do not know what the outcome will be. If cloture carries, it means we will be on the bill for the rest of that day and perhaps other days as well. But I would like to get the calendar cleared up as much as possible in the meantime.

Mr. PASTORE. Can we vote at 11 o'clock?

Mr. MANSFIELD. Well, if we come in at 11 o'clock, we have to spend an hour debating the motion itself, before voting.

Mr. PASTORE. I do not want to be too presumptuous, but we could come in at 9:30 and spend an hour debating cloture, beginning at 10, and take a vote at 11.

Mr. GRIFFIN. Mr. President, if the Senator will yield, we have at least one request on this side that the vote not occur until 12 o'clock.

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

Mr. MANSFIELD. Yes.

Mr. JAVITS. Mr. President, we are approaching the end of the session. The leadership is planning adjournment. There has been on the calendar since March 6, 1973, an item entitled "International Convention on the Prevention and Punishment of the Crime of Genocide." It will take a two-thirds vote to ratify that convention, and a two-thirds vote, should there be an effort to do so, to bring about cloture.

I would like to ask the majority leader whether he has any plan in mind for that particular item of business.

Mr. MANSFIELD. Yes, indeed. It is anticipated that within the first month of our return, sometime in that period, we will take up the so-called Genocide Convention, a treaty which has been on the calendar for a long time— practically all of this first session of the 93d Congress and most of the two sessions of the preceding 92d Congress. So the Senator has my word it will be brought up. The Senate is on notice.

Mr. JAVITS. And the majority leader will, of course, give us due notice of the date?

Mr. MANSFIELD. Oh, yes, at least 2 or 3 days notice, if possible. Certainly 1 at the least.

Mr. JAVITS. I thank the Senator.

Mr. MANSFIELD. That is it.

Mr. ROBERT C. BYRD. Mr. President, the majority leader has stated the program for tomorrow. I will only add this to the majority leader's statement:

The Senate will convene at 10 a.m.

Mr. BENTSEN will be recognized for not to exceed 15 minutes.

Under a previous order, there will then be a period for the transaction of routine morning business, with statements therein limited to 3 minutes, the period not to exceed beyond 10:30 a.m.

At 10:30 a.m., the time will begin running on the motion to invoke cloture on the legal services bill.

At 11:30 a.m., the automatic quorum call will begin, upon the completion of which the automatic yea-and-nay vote will occur on the motion to invoke cloture.

Mr. GRIFFIN. Mr. President, for the purpose of clarification, because several Members are interested, is it the case—and I believe it is—that that rollcall vote would be 15 minutes in length, rather than 10?

Mr. ROBERT C. BYRD. The Senator is correct. I thank him for reminding the Senate.

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. GRIFFIN. Mr. President, in accordance with the previous order, I move that the Senate stand in adjournment.

The motion was agreed to; and at 6:16 p.m., the Senate adjourned until tomorrow, Friday, December 14, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 13, 1973:

DEPARTMENT OF STATE

Viron P. Vaky, of Texas, a Foreign Service officer of Class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

Lloyd I. Miller, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Trinidad and Tobago.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 13, 1973:

ENVIRONMENTAL PROTECTION AGENCY

Alan G. Kirk II, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

DEPARTMENT OF JUSTICE

John O. Olson, of Wisconsin, to be U.S. attorney for the western district of Wisconsin for the term of 4 years.

Evan LeRoy Hultman, of Iowa, to be U.S. attorney for the northern district of Iowa for the term of 4 years.

Ira De Ment, of Alabama, to be U.S. attorney for the middle district of Alabama for the term of 4 years.

Julio A. Brady, of the Virgin Islands, to be U.S. attorney for the Virgin Islands for the term of 4 years.

William A. Quick, Jr., of Virginia, to be U.S. marshal for the western district of Virginia for the term of 4 years.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

THE JUDICIARY

Albert J. Engel, of Michigan, to be a U.S. circuit judge for the Sixth Circuit.

William C. Conner, of New York, to be U.S. district judge for the southern district of New York.

Richard Owen, of New York, to be U.S. district judge for the southern district of New York.

Russell James Harvey, of Michigan, to be U.S. district judge for the eastern district of Michigan.