SENATE—*Tuesday, April 23, 1974*

The Senate met at 11 a.m. and was called to order by Hon. HAROLD E. HUGHES, a Senator from the State of Iowa.

PRAYER

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

Eternal Father, while the heavens are declaring Thy glory and the firmament showing Thy handiwork, help us to attune our hearts to the music and the beauty of the Creator. Push back our horizons that creatively we may pursue only the beautiful, the good, and the true.

Take from us, O Lord, all ugly thoughts and mean attitudes. Motivate our lives by love—the love which suffereth long and is kind, which envieth not, vaunteth not itself, is not puffed up, doth not behave itself unseemly, seeketh not her own, is not easily provoked, thinketh no evil, rejoiceth not in iniquity, but rejoiceth in the truth.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 23, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. HAROLD E. HUGHES, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, April 22, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 756 and 757.

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

OMNIBUS EXPORT EXPANSION ACT OF 1974

The Senate proceeded to consider the bill (S. 1486) to authorize the Secretary of Commerce to engage in certain export expansion activities, and for related purposes, which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Omnibus Export Expansion Act of 1974".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress hereby finds and declares that:

(1) In 1960 the United States produced 25 per centum of the manufactured goods sold in the world market, but by 1971 the United States-produced percentage of the manufactured goods sold in the world market had dropped to less than 20 per centum. From 1960 to 1971, the United States share of the world's export markets declined from 21 per centum to 16 per centum. Such decrease represents approximately $8,000,000,000 in lost American exports and five hundred thousand lost job opportunities for Americans.

(2) In 1971 and 1972 the United States experienced balance-of-trade deficits for the first time since 1893. The deficit for 1971 was more than $2,000,000,000 and the deficit for 1972 was more than $6,000,000,000.

(3) The standard of living of Americans, the Nation's ability to finance imports, the maintenance of high domestic employment, and the capacity of the United States to contribute to peace and international development and to discharge its international responsibilities and national security needs are all dependent in significant part upon maintenance of favorable international trade balances. Progressive devaluations of the value of the dollar have provided temporary relief but the real solution to the problem of avoiding chronic balance-of-trade deficits without periodic devaluations lies in increasing the amount and value of American exports.

(4) The amount of assistance given to producers of American goods, products, and services by the Federal Government in finding and taking advantage of marketing opportunities in foreign nations is very limited compared to the Federal aid and incentive credits extended to domestic industrial and commercial interests and in contrast to the export promotion program maintained by many foreign nations. Since foreign commerce has been, until recently, of only limited significance to the national well-being compared with interstate and local commerce, American policymakers were in the past unaccustomed to recognizing and evaluating international economic policy considerations, and small businessmen who have traditionally produced only for the domestic market lack the experience to sell in foreign markets.

(5) The cooperation of all sectors of American society, including industry, labor, consumers, agriculture, and government at all levels can result in an expansion of American exports and more favorable business performance abroad.

(b) PURPOSES.—It is therefore declared to be the purpose of Congress in this Act to provide Federal Government assistance and to stimulate export expansion through—

(1) grants to sponsoring governments;

(2) establishment of export training programs;

(3) establishment of regional export assistance centers;

(4) simplification and standardization of international trade documentation and procedural requirements;

(5) establishment of the Federal Export Agency;

(6) certifying and assisting United States Export Associations; and

(7) requiring all agencies of the Federal Government to give greater recognition and priority in decisionmaking to the improvement of the international economic relations and balance of payments and balance of trade of the United States.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Agency" means the Federal Export Agency established under section 8 of this Act.

(2) "Agency of the Federal Government" means any department, agency, bureau, commission, or other office in the executive branch of the Federal Government; any independent agency or establishment of the United States, including a corporation primarily acting as an instrumentality of the United States; and any regional, State, or local agency which is empowered by Congress to issue standards, orders, permits, or other administrative regulations which may become effective without the necessity for approval by any other agency of the Federal Government.

(3) "Association" means a United States export association organized under section 11 of this Act.

(4) "Center" means a United States Regional Export Assistance Center established under section 6 of this Act.

(5) "Director" means the Director of the Agency.

(6) "Export activity" means any activity which may, directly or indirectly, alone or in conjunction with any other such activity, result in the sale of any American goods, products, or services in a foreign nation. The term includes, but is not limited to, advertising, marketing, publicity, and sales activity in any foreign nation; participation in trade exhibitions; product use familiarization; supplying samples, models, and technical data; preparing bids on projects in foreign nations; operating market development and sales offices, showrooms, warehouses, repair or service centers in foreign nations; and transportation services; and trade or documentation procedures.

(7) "Export group" means any combination of two or more persons organized and operated solely for the purpose of carrying on export trade.

(8) "Foreign commerce" means selling or providing goods, commodities, products, data, or transportation, insurance, tourism, or other services, including export activity services, outside the United States.

(9) "Person" means an individual or an association, corporation, partnership, or other organization existing under or recognized by the laws of the United States or the laws of any foreign country.

(10) "Secretary" means the Secretary of Commerce.

(11) "Small business" means a corporation, partnership, joint venture, proprietorship, or other business entity which is independently owned and operated and which is not dominant in its field of operation.

(12) "Sponsoring government" means any State, municipality, regional, or local government agency which undertakes an export expansion project pursuant to section 4 of this Act.

(13) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

(14) "United States" means the several

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

GRANTS TO SPONSORING GOVERNMENTS

SEC. 4. (a) GENERAL.—The Secretary is authorized to make a grant or loan or provide technical assistance to a sponsoring government for any project which is likely to result in an increase in American exports and which is endorsed and supported by such governments: *Provided*, That the amount of any Federal financial assistance shall never exceed 50 per centum of the total cost of the project.

(b) PROCEDURE.—The Secretary shall prescribe such rules, regulations, and procedures as he deems necessary or appropriate for the administration of this section.

(c) FACTORS.—In determining whether to make a grant or loan or provide technical assistance to a sponsoring government, which has filed an application in writing with him for assistance with respect to a particular project which is described in such form and with such particularity and information as he requests, the Secretary shall consider all relevant factors, including, but not limited to—

(1) the sales potential of such project;

(2) the qualifications and capability of the exporters who would benefit from such assistance;

(3) the availability of assistance through other facilities and programs maintained by the Secretary or other agencies of the United States. The Secretary shall direct sponsoring governments and exporters to utilize such other facilities and programs to the extent possible;

(4) the extent to which the sponsoring government is following and using innovative and imaginative methods and approaches.

(5) the willingness of the sponsoring government and project participants to cooperate with other American exporters and agencies of the United States to increase the total value and amount of American exports; and

(6) the impact of such project on United States demand, supply, and prices.

(d) RECORDS.—Each sponsoring government shall keep such records as the Secretary shall require including records which fully disclose the amount and disposition by all direct or indirect recipients of assistance under this section; the total cost of the project for which such assistance was rendered; the amount of such total cost which was supplied by sources other than the Federal Government; the amount, if any, by which exports of project participants one year after the termination of the project exceed exports by such participants before the project was approved for assistance under this section; and such other records as the Secretary determines will facilitate an effective financial and performance audit.

(e) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly designated representatives, shall have access for the purpose of audit and examination, to any books, documents, papers, and records of sponsoring governments and other project participants which are pertinent to the assistance received under this section.

EXPORT TRAINING PROGRAMS

SEC. 5. (a) GENERAL.—The Secretary, in cooperation with other Federal agencies, is authorized to establish, maintain, and conduct educational and training programs to increase the expertise, capability, and interest of American citizens and businesses in the export trade and to facilitate the efforts of small, new, or potential American exporters. Such educational and training programs may be designed to—

(1) train appropriate persons, including new and potential exporters and their employees and such other persons as the Secretary selects, in technical export problems, such as transportation services, trade documentation and procedures, currency and credit, financing, tariffs, and nontariff barriers to trade;

(2) teach and provide information on effective export and marketing techniques and approaches;

(3) familiarize participants in such programs with previous United States experience in particular markets and any special opportunities, difficulties, and problems likely to be encountered in such markets; and

(4) introduce such participants to all the relevant services and programs maintained by Federal agencies in the United States and in foreign nations and by appropriate international organizations.

(b) AUTHORITY.—The Secretary is authorized to—

(1) contract with American or foreign universities or private individuals or firms to establish, operate, teach or in other ways to assist in maintaining and conducting export training programs under this section. Such contracts may be entered into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) and the temporary and intermittent services of individuals may be procured to the same extent as if authorized under section 3109 of title 5, United States Code, at rates not to exceed $100 a day for qualified individuals. Each department, agency, and instrumentality and each independent regulatory agency of the United States is authorized to furnish to the Secretary, upon written request, on a reimbursable basis or otherwise, such assistance as the Secretary deems necessary or appropriate to the carrying on of export training programs under this section, including but not limited to, transfer of personnel with their consent and without prejudice to their position and rating;

(2) issue such rules, regulations, forms, and procedures as he deems necessary or appropriate for the administration of this section; and

(3) acquire by purchase, lease, or otherwise such facilities or other property as may be necessary or appropriate to carry out the provisions of this section.

(b) FEES.—The Secretary shall charge each participant in an export training program a fee sufficient to cover not less than one-half of the total cost of such program for such participant or student, including indirect and overhead costs. The Secretary, in his discretion, may admit to participate without payment of any fee, a limited number of employees of the Federal agencies and the United States Congress who are directly involved in international commerce.

REGIONAL EXPORT ASSISTANCE CENTERS

SEC. 6. (a) GENERAL.—(1) The Secretary shall maintain in developing markets United States regional export assistance centers (defined in section 3(4) in accordance with this section.

(2) In the first three years after the date of enactment of this Act, the Secretary shall establish and maintain not more than five centers or expand existing trade facilities to provide such services authorized in this section. Thereafter, he is authorized to establish and maintain, expand, modify, or terminate centers as he deems necessary or appropriate. Each center shall be located in a foreign nation in an area which the Secretary determines offers good marketing prospects for American goods, products and services.

(3) The Secretary, in consultation with the Secretary of State, shall designate the geographical areas to be included in the region serviced by each center and select the location at which each center is to be situated. Existing trade facilities shall be used to be extent feasible.

(b) DIRECTOR AND PERSONNEL.—(1) Each center shall be administered and supervised by a Director who shall be an individual trained and experienced in export promotion and foreign commerce and familiar with the geographical areas services by the Center of which he shall be the Director. Each Director shall be compensated at a rate to be set by the Secretary without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate of GS-18 of the General Schedule under section 5332 of such title.

(2) Qualified personnel likely to be helpful in advancing the policy of this Act shall be assigned by the Secretary to each center, including appropriate Foreign Service officers.

(c) FUNCTIONS AND SERVICES.—Each Center shall function as a storage, distribution, and service headquarters, for small, medium-sized, new-to-export, and new-to-market American exporters providing a comprehensive range of services for such exporters. A Center may—

(1) lease office, warehouse, and marketing space;

(2) provide legal and financial assistance;

(3) compile and provide marketing and related data and services;

(4) provide information about transportation services and trade documentation and procedures;

(5) establish, maintain, and provide translation services, language training, and instruction in local practices and customs in areas serviced by the Center;

(6) maintain communications between such exporters and appropriate American Government employees in the region serviced by the Center;

(7) schedule meetings and conduct conferences for American exporters and potential purchasers and distributors of the goods, products, and services of such exporters;

(8) provide display areas and organize exhibitions;

(9) coordinate American export activities with the activities in the region of other agencies of the United States and appropriate international organizations;

(10) contract for service, studies, and professional assistance; and

(11) provide such other services as may be helpful to American exporters served by such Center.

(d) FEES.—The Secretary shall establish a fee for each service provided by a Center. The amount of such fee shall vary depending upon the size of the exporter's business, his export history, export potential, and cost of the service. Three years after the establishment of a Center income from such fees must be adequate to sustain at least one-half of the total cost of such Center.

SIMPLIFICATION OF DOCUMENTATION

SEC. 7. (a) PROGRAM.—(1) The Secretary of Commerce, in cooperation with other Federal agencies, in implementing and administering this Act, shall design rules and regulations, requirements for reportng, conduct of programs, recordkeeping, furnishing and compilation of data, inspection of documents, application requirements, and the like in such a manner as to reduce the cost of and expedite the administration, reporting, recordkeeping, and trade documentation and procedures required under this Act. Rules and regulations, reporting recordkeeping, and trade documentation and procedural requirements under this Act shall be periodically reviewed and revised in the light of developments in the field of information technology.

(2) The Secretary of Transportation is authorized and directed to encourage, develop, and promote the improvement,

formulation, and adoption of simplified and standardized international trade documentation and procedural requirements. In performing this function, the Secretary shall consult with all Federal Government agencies involved in international trade on ways to reduce the costs of trade documentation and procedures and shall consult and work with such other qualified and interested persons as he deems appropriate.

(b) IMPLEMENTATION.—The Secretary of Transportation shall take all steps necessary to implement each of the following if after consultation and review, he determines that implementation is likely to further the policy of this Act;

(1) Acceleration of business and Government programs to adopt simplified standardized trade and transportation documentation and procedures;

(2) Encouragement of international agreements on the acceptance of common invoice forms, including the elimination of unnecessary language translation of documentation;

(3) Simplification of documentation identification through the use of standard control numbers;

(4) Replacement of the Government bill of lading with commercial bill of lading;

(5) Review of all existing, new, or revised transport documents on a centrally coordinated basis;

(6) Sponsorship and encouragement of programs of statistical exchange between the United States and other countries on a bilateral basis to reduce trade documentation and simplify the collection of import-export data;

(7) Simplification, standardization, and coordination of import entry documentation with standardized forms to reduce the complexity of import documentation;

(8) Examination of customs forms, practices, and procedures relating to the administration of customs drawback;

(9) Promotion of intergovernmental programs to eliminate conflicting and/or retaliatory documentation requirements;

(10) Review of customs requirements on the methods of payment of import duties;

(11) Replacement of all special foreign assistance international forms with standard commercial documents; and

(12) Simplification of regulations and procedures for the issuance of export licenses and temporary export licenses.

(c) REPORT.—The Secretary of Transportation shall issue a report to the Congress and the President not later than ninety days after the end of each fiscal year with respect to actions taken to simplify and standardize international trade documentation and procedures together with plans for the following year and legislative recommendations, if any. Such report shall be submitted to the Congress without prior review, clearance, or submission to any other agency or officer of the United States.

UNITED STATES FEDERAL EXPORT

SEC. 8. (a) ESTABLISHMENT.—There is hereby established in the Department of Commerce an agency to be known as the Federal Export Agency.

(b) DIRECTOR.—The Agency shall be administered and supervised by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall receive compensation at the rate now and hereafter prescribed for offices and positions at level V of the Executive Schedule (5 U.S.C. 5316).

(c) DEPUTY DIRECTOR.—The Director shall appoint a Deputy Director, who shall serve as Acting Director during any period of absence or incapacity of the Director and who shall carry out any duties delegated or assigned to him by the Director. The Deputy Director shall receive compensation at a rate now and hereafter prescribed for offices and positions at level of GS-18 on the General Schedule (5 U.S.C. 5332).

(d) INTERMITTENT SERVICES.—The Director may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. Persons so employed shall receive compenation at a rate to be fixed by the Agency, but not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services for the Agency, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(e) ASSISTANCE AND COOPERATION.—The Agency may secure from any agency of the United States any information relating to international trade and United States foreign policy necessary to enable it to carry out its duties under this Act. Upon request of the Director, each such department or agency is authorized to furnish such information to the Agency on a reimbursable basis or otherwise. The provisions of section 1905 of title 18, United States Code, shall apply to the Agency, its officers and employees, with respect to information obtained under this subsection or in any other manner. The Agency shall not release, without written permission of each person to whom it relates, any information described in section 552(b) of title 5, United States Code.

(f) REORGANIZATION.—The Secretary is authorized, after investigation, to transfer the whole or part of the functions of any office subject to his jurisdiction to the Agency, upon the preparation of a reorganization plan for the making of the reorganizations as to which he has made findings and which he includes in the plan and the submission of such plan to Congress together with a declaration that such reorganization is necessary or appropriate to further the declaration of policy of this Act: Provided, That such reorganization plan shall not become effective if either House of Congress within sixty days after the date of transmittal passes a resolution stating in substance that such House does not favor the reorganization plan.

DUTIES OF AGENCY

SEC. 9. (a) GENERAL.—The Agency shall, in coordination with other Federal agencies—

(1) foster the development of United States export associations or joint export projects composed of businesses which have not actively engaged in substantial export sales operations, or which, in the opinion of the Director, may have potential for further exports;

(2) survey and identify small businesses which possess undeveloped export potential and which are interested in joining with other small businesses in United States export associations or in joint export projects in order to develop a joint export operation;

(3) obtain operating and other business information from such small businesses, from export management concerns, export groups, and from any other person engaged in exporting in order to provide assistance and advice to such small businesses, export groups, or persons engaged in exporting, with respect to the identification of products which have export potential, the combination of products for efficient exportation, and the development of export markets;

(4) provide technical assistance, advice, and financial support through grants, loans, and cost-sharing contracts in accordance with the provisions of sections 12 and 13 of this Act;

(5) provide institutional leadership to bring together small businesses who are interested in entering into joint exporting arrangements through the formation of a United States export association or export groups and to provide assistance in the formation of such associations or groups;

(6) encourage the use of export management companies, and export management personnel and divisions of other companies, by associations or groups wherever appropriate; and

(7) establish and conduct programs for the development of technical, professional, and managerial skills necessary to the establishment and operation of United States export associations and necessary to successful operations by export groups or persons engaged in exporting, and for the development of liaison between the Agency, United States export associations, export groups, and international financial, investment, and marketing institutions.

(b) ANNUAL REPORT.—The Director shall, not later than ninety days after the end of each fiscal year, make a report in writing to the Congress and the President on the activities of the Agency, during the preceding fiscal year. The report shall not be subject to prior submission, review, of clearance of any other agency or officer of the United States. The report shall include, but not be limited to, the following:

(1) number of associations, export groups, persons, and sponsoring governments operating under this Act during the fiscal year;

(2) number of companies which are members of such associations or which are participating in joint export projects;

(3) amount and purpose of grants and loans, and cost-sharing contracts provided;

(4) an evaluation of the operations of firms which have formed associations or export groups or persons who have entered into cost-sharing contracts under section 13 of this Act in increasing exports;

(5) any recommendations, including recommendations for legislation, which may be necessary or desirable to improve export performance; and

(6) the activities of the Agency in stimulating an export consciousness within the United States business community.

POWERS OF THE AGENCY

SEC. 10. The Agency is authorized—

(a) to adopt a seal, which shall be judicially recognized;

(b) to issue such rules and regulations, in accordance with section 553 of title 5, United States Code, as it deems necessary and appropriate to carry out the provisions of this Act;

(c) to the extent necessary or appropriate to the policy of this Act, to acquire and maintain property (real, personal, or mixed, tangible, or intangible, or any interest therein) by purchase, lease, condemnation, or in any other lawful manner; to sell, lease, or otherwise dispose of such property in any manner; and to construct, operate, lease, and maintain buildings, facilities, or other improvements on such property;

(d) to accept gifts or donations or services, money, or property in any form;

(e) to collect, analyze, and publish data and information related to exports and export promotion; to maintain such information offices and answering services as the Director determines necessary to give prompt, accurate, and meaningful responses to questions from potential exporters; and to maintain a continuous market survey of the most profitable export opportunities for American goods, products, and services. To the extent possible, the Agency shall utilize programs, data, and information already available in other Federal Government departments and agencies. The Agency shall provide liaison at an appropriate organization level to insure coordination of its activities with such other agencies, departments, bureaus, or offices;

(f) to enter into contracts or other arrangements or modifications thereof, with any person, any department or agency of the United States, and any State government or political subdivision thereof;

(g) to make advance, progress, or other payments which the Director deems necessary or appropriate to further the policy of this Act;

(h) to propose, in the discretion of the Director, additional programs in furtherance of the policy of this Act to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives without prior submission, review, or clearance of any other agency or officer of the United States; and

(i) to take such other action as may be necessary to carry out the provisions of this Act.

UNITED STATES EXPORT ASSOCIATIONS

SEC. 11. (a) ELIGIBLE BUSINESS.—Upon application in writing by a small business, the Agency shall certify such business as eligible to participate in a United States export association if—

(1) its average annual sales during the five calendar years preceding the year in which such application is made were less than $30,000,000;

(2) not more than 5 per centum of its average annual sales during such period consisted of sales to foreign markets, not including Canada and Mexico, except insofar as the Director determines that such small business has the potential for substantially increased export;

(3) it is not already a member of more than one United States export association; and

(4) on the basis of an examination and estimate of the quality and appeal of its products in relation to demand in foreign markets, the Director determines that membership in a United States export association would likely result in an increase in the export sales of such business.

(b) FORMATION.—Three or more businesses, which have been certified as eligible businesses under section 11 of this Act may combine for the limited purpose of forming a United States export association subject to the provisions of this title. Such an association shall be a corporation formed organized to operate as a cooperative marketing entity exclusively to—

(1) enter foreign markets and engage in export sales of American goods, products, and services; and

(2) provide members of such associations with appropriate international trade assistance and export activity services, including but not limited to—

(A) identification of foreign markets for the goods, products, and services sold by such members;

(B) promotion of goods, products, and services sold by such members in foreign markets; and

(C) assistance to such members in technical aspects of exporting such as obtaining necessary licenses, financing, and guarantees.

(c) QUALIFICATION.—A United States export association formed in accordance with the requirements of subsections (a) and (b) of this section may qualify for assistance from the Agency if—

(1) the association is composed of at least three businesses, each of which has been certified as an eligible business under section 11 of this Act;

(2) the association files an application for qualification with the Agency. Such application shall be presented in such manner and shall contain and be accompanied by such information as the Director may require. Each such application shall provide that—

(A) any assistance received under this title shall be used exclusively for the purposes authorized under this title; and

(B) the association and each of its members agree to observe the rules and regulations promulgated under this title;

(3) each business which is a member of the association has paid not less than $1,000 into a common escrow account; and

(4) the association has appointed a chief executive officer who demonstrates to the satisfaction of the Director that he is qualified to direct the export activities of the association, or the association has retained an export management firm which demonstrates to the satisfaction of the Director that it is qualified to carry out such export activities.

(d) LIABILITY.—A United States export association formed and qualified under this section shall be liable to the United States for repayment of the full principal, interest, and any penalty due on any loan received from the Agency. If such association breaches such obligation, in whole or in part, each of the businesses which is a member of such association shall be directly liable, jointly and severally with the other members, for repayment of the loan, including any unpaid principal, interest, and penalty amounts. Termination of membership in such an association on the part of any business shall not operate to terminate the liability of such business for association debts as of the date of withdrawal.

(e) ANTITRUST LAWS UNIMPAIRED.—Nothing in this Act shall be construed to modify or repeal any provision of any of the antitrust laws of the United States, including any laws prohibiting restraints of trade, unfair trade practices, or impairment of competition.

AGENCY ASSISTANCE TO ASSOCIATION

SEC. 12. (a) TECHNICAL ASSISTANCE GRANT.—The Agency is authorized to make a technical assistance grant to a United States export association which is formed and qualified under section 11 of this Act. The amount of such grant shall be not less than the amount of money in the common escrow account maintained by such association and not more than $75,000. Technical assistance grant funds may be used by such association for a period of not more than two years after the date of application for such grant to—

(1) secure expert advice and assistance in developing the operating agreements necessary to further joint export operations by members of such associations;

(2) finance management seminars and teaching programs for members of such associations with respect to operating export information including export market analysis, export marketing, channels of export distribution, and identification of promising market areas for products;

(3) develop common catalogs and other marketing aids for such association and its members; and

(4) develop such other operating export information as is determined by the Agency to be appropriate.

(b) LOAN.—The Agency is authorized to make a loan to a United States export association which is formed and qualified under section 11 of this Act. The amount of such loan shall be not in excess of the amount paid in by the members of such association to provide funds for the employment of management and other personnel and to provide working capital for the development of international representation of goods, products, and services sold by such members. The interest rate of such loan shall be not less than the average annual interest rate on all interest-bearing obligations of the United States having maturities of twenty years or more and forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan, adjusted to the nearest one-eighth of 1 per centum.

(c) LIMIT.—No United States export association (including any successor association or any association composed of substantially the same members) shall receive from the Agency more than one technical assistance grant and one loan.

(d) RECORDS.—(1) Each recipient of Federal assistance under sections of this Act, pursuant to grants, subgrants, contracts, subcontracts, loans, or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by sections 12 and 13 of this Act, shall keep such records as the Agency 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 such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Director of the Agency, in the administration of these sections, shall minimize recordkeeping and documentation in a manner consistent with sound commercial and administrative practice and shall design rules and regulations, and requirements for reporting conduct of programs, recordkeeping, furnishing and compilation of data, inspection of documents, application requirements, and other such matters in such a manner as to reduce the cost of reporting, recordkeeping, and export documentation required.

(e) AUDIT AND EXAMINATION.—The Director of the Agency and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (d) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director or the Comptroller General may be related to or pertinent to the grants, subgrants, contracts, subcontracts, loans, or other arrangements referred to in such subsection.

AGENCY ASSISTANCE FOR JOINT EXPORT PROJECTS

SEC. 13. (a) JOINT EXPORT PROJECTS.—The Agency is authorized to enter into a cost-sharing contract with any export group or persons comprising such group to further the purposes of this Act and to foster, promote, and develop the export trade of the United States. Such a cost-sharing contract may be entered into by the Agency if—

(1) the export activity to be undertaken will be in addition to any export activity which such export group or persons comprising such groups are likely to have undertaken at such time in the absence of such contract;

(2) the recipient of such Agency assistance demonstrates to the satisfaction of the Director that the chief operating officer of such project is qualified to direct such project;

(3) the cost shared by the Agency will be incurred on behalf of such export group or persons comprising such group in carrying on export trade;

(4) the Agency's share of any costs shall not exceed 50 per centum of the total costs or $100,000, whichever is less;

(5) such export group or persons comprising such group has not received a technical assistance grant or loan authorized under section 12 of this Act or a prior contract authorized under this section; and

(6) the Director determines that such export activity will not have an adverse effect on United States supply, demand, and prices of those goods or services to be exported.

(b) PROCEDURE AND CONDITIONS.—(1) Any export group or persons comprising such group seeking to enter into a cost-sharing contract with the Agency shall file an application in writing with the Director in such form and containing such information as he shall by regulation prescribe. Such application shall be acted upon in accordance with regulations of the Agency.

(2) Any cost-sharing contract that may be entered into under this section shall include a provision requiring the Agency's share of the cost incurred to be repaid from gross profits earned by the export group or persons comprising such group from sale of goods or services resulting from such cost-sharing contract, together with any other reasonable conditions as the Director shall impose.

ASSESSMENT STATEMENT

SEC. 14. GENERAL.—Each agency of the Federal Government shall include in each recommendation of or report on any Federal action or proposal which significantly affects or could significantly affect international economic relations, the balance of payments, or the balance of trade of the United States, a detailed statement by the responsible official of such agency on the probable international economic consequences of such action for the United States. The statement should include—

(1) an assessment of the impact of the proposed action on the international economic relations or position of the United States;

(2) an assessment of the impact of the proposed action on the United States balance of payments;

(3) an assessment of the impact of the proposed action on the United States balance of trade;

(4) an assessment of the impact of the proposed action on employment in the United States; and

(5) a presentation of alternatives to the proposed action and a comparative analysis of such alternatives in terms of factors (1) through (4) of this subsection. The responsible official of such agency shall, prior to making any such statement, consult with and obtain the comments of any other agency of the Federal Government which has official responsibility or special expertise as to international economic or trade policy or the matters set forth in such factors. Copies of such statement together with the comments and views of all agencies consulted shall be made available to the President, to the Congress, and to the public, pursuant to section 552 of title 5, United States Code, and shall accompany the proposal through all agency review procedures.

(b) GUIDELINES.—The Council on International Economic Policy, in consultation with the Secretary of Commerce, the Secretary of the Treasury, and other appropriate officials, not less than ninety days after the date of enactment of this Act, shall formulate, issue, and publish guidelines—

(1) identifying those actions or proposals which significantly affect or could significantly affect international economic relations, the balance of payments, or the balance of trade of the United States;

(2) identifying the agencies of the United States which do or may take actions or consider proposals which significantly affect or could significantly affect international economic relations, the balance of payments, or the balance of trade of the United States, and which accordingly are required to file assessment statements under subsection (a) of this section; and

(3) specifying the procedures to be followed by agencies of the United States in preparing assessment statements under subsection (a) of this section.

(c) JUDICIAL REVIEW PROHIBITED.—Nothing in this section shall be construed to authorize or give rise to a cause of action or claim for relief in any court for breach of any obligation imposed by this section.

(d) EFFECTIVE DATE.—This section shall take effect July 1, 1974.

(e) SHORT TITLE.—This section may be cited as the "International Economic Impact Assessment Act".

AMENDMENTS TO THE EXPORT TRADE ACT

SEC. 15. (a) Section 1 of the Export Trade Act (40 Stat. 516; 15 U.S.C. 61) is amended to read as follows:

"As used in this Act—

"(1) 'Antitrust laws' means the laws defined as such in sections 12 and 44 of title 15, United States Code, the Federal Trade Commission Act (15 U.S.C. 41–58), and other laws of the United States in pari materia, including State laws on antitrust and unfair methods of competition, and all amendments to the foregoing.

"(2) 'Association', wherever used in sections 1 through 5 of this Act, means any combination, by contract or other arrangement, of two or more persons who are citizens of the United States or which are created under and exist pursuant to the laws of any State or of the United States.

"(3) 'Export trade' means exclusively trade or commerce in goods, products, merchandise, or architectural, engineering, construction, training, financing, insurance or project or general management services or the licensing for distribution or exhibtion of motion pictures or television films or tapes or similar services which are exported, or in the course of being exported, from the United States to any foreign nation. The term does not include—

"(A) the production, manufacture, or sale for consumption or for resale within the United States of such goods, products, merchandise, or services, or any act in the course of such production, manufacture, or sale for consumption or for resale;

"(B) any act, practice, agreement, or course of conduct a substantial effect of which is to constitute a restraint of trade or commerce, including foreign commerce, in the United States; or

"(C) trade or commerce in patents, licenses, or know-how except as incidental to the sale of such goods, products, merchandise, or services.

"(4) 'United States' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

"(5) 'Trade within the United States', wherever used in sections 1 through 5 of this Act, means trade or commerce between two or more States.".

(b) Section 2 of the Export Trade Act (40 Stat. 517; 15 U.S.C. 61) is amended by inserting "(a)" before the first sentence thereof, deleting "therein" at the end thereof, and adding the following: "therein: *Provided further*, That a person is eligible to participate in an association if, upon application in writing, the Federal Trade Commission finds that—

"(1) a partnership's, person's, or corporation's export sales are likely to be substantially increased as a result of membership in an association and that it is not likely to increase export sales significantly without membership in an association, or

"(2) a partnership's, person's, or corporation's membership in an association is essential to the effective functioning of such association.".

(c) Section 2 of such Act is further amended by adding at the end thereof the following two new subsections:

"(b) The Secretary of Commerce, in consultation with the Chairman of the Federal Trade Commission, shall establish within the Department of Commerce a program to promote and maximize the formation of associations and the use of the provisions of this Act in a manner consistent with this Act and the antitrust laws.

"(c) The Chairman of the Federal Trade Commission and the Attorney General of the United States and their duly authorized representatives shall meet and discuss periodically as necessary to avoid conflicting positions regarding the formation and maintenance of associations.".

CONFORMING AMENDMENTS

SEC. 16. (a) Section 207(a) of the International Economic Policy Act of 1972 (22 U.S.C. 2846(a)) is amended: (a) by striking out "and" at the end of paragraph (5) thereof; (b) by striking out "." and inserting in lieu thereof "; and" at the end of paragraph (6) thereof; and (c) by inserting the following new paragraph at the end thereof:

"(7) a status report on the International Economic Impact Assessment Act with respect to the adoption of reporting procedures required of agencies of the United States and a summary of actions taken by such agencies which significantly affect or could significantly affect international economic relations, the balance of payments, or the balance of trade of the United States and for which assessment statements have been prepared under such Act.".

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(133) Director, Federal Export Agency."

AUTHORIZATION FOR APPROPRIATIONS

SEC. 17. There are hereby authorized to be appropriated such sums as are necessary—

(a) for the fiscal year ending June 30, 1974, not to exceed to—

(1) $5,300,000 for purposes of carrying out section 4 (grants to sponsoring governments);

(2) $800,000 for purposes of carrying out section 5 (export training programs);

(3) $2,500,000 for purposes of carrying out section 6 (regional export assistance centers); and

(4) $25,000,000 for programs carried out by the Agency.

(b) for the fiscal year ending June 30, 1975, not to exceed—

(1) $8,000,000 for purposes of carrying out section 4;

(2) $1,500,000 for purposes of carrying out section 5;

(3) $4,000,000 for purposes of carrying out section 6; and

(4) $35,000,000 for programs carried out by the Agency.

(c) for the fiscal year ending June 30, 1976, not to exceed—

(1) $8,000,000 for purposes of carrying out section 4;

(2) $1,500,000 for purposes of carrying out section 5;

(3) $4,000,000 for purposes of carrying out section 6; and

(4) $35,000,000 for programs carried out by the Agency.

The amendment was agreed to.

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

The title was amended, so as to read: "A bill to regulate commerce by authorizing and establishing programs and activities to promote the export of American goods, products, and services and by increasing the recognition of international economic policy considerations in Federal decisionmaking, and for other purposes."

TARIFF SIMPLIFICATION AND FREIGHT RATE DISPARITIES ACT OF 1974

The Senate proceeded to consider the bill (S. 1488) to provide for a system of uniform commodity descriptions and tariffs filed with the Federal Maritime Commission, which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Tariff Simplification and Freight Rate Disparities Act of 1974".

SEC. 2. Section 18 of the Shipping Act, 1916 (46 U.S.C. 817), is amended by adding a new subsection (c) as follows:

"(c)(1) Within one hundred and eighty days after enactment of the Tariff Simplification and Freight Rate Disparities Act of 1974, the Commission shall publish proposed regulations for comment by interested parties and after consideration of such comments shall adopt a system of uniform commodity descriptions and codes to be used by all common carriers by water in foreign commerce and all conferences of such carriers, when filing any rate, charge, or tariff with the Commission.

"(2) Within sixty days after adoption of the uniform commodity descriptions and codes provided for in paragraph (1) of this subsection, the Commission shall propose regulations requiring all common carriers by water in foreign commerce and all conferences of such carriers (A) when filing any outbound rate or charge with the Commission, to include with such filing a statement of the applicable inbound rate or charge for the movement of the identical commodity between the same two points, the same ports, or between the same point and the same port, and (B) when filing any inbound rate or charge with the Commission to include with such filing a statement of the applicable outbound rate or charge for the movement of the identical commodity between the same two points, the same ports, or between the same point and the same port.

"(3) After the effective date of the Commission's regulations issued under paragraph (2) of this subsection, which shall not be later than twelve months after the effective date of the regulations issued under paragraph (1) of this subsection, no common carrier by water in foreign commerce and no conference of such carriers shall have on file or file with the Commission, or maintain in effect, or apply, any inbound or outbound rate or charge for the transportation of a commodity without including therewith a statement of the applicable rate or charge for the movement in the opposite direction of the identical commodity between the same two points, the same ports, or between the same point and the same port. The Commission may reject the filing of any rate or charge if it determines that such filing does not include a statement of the applicable rate or charge for the movement in the opposite direction of the identical commodity as required by this subsection.

"(4) Whenever any common carrier by water in foreign commerce or any conference of carriers files any schedule with the Commission, the Commission is authorized to order a public hearing to determine whether such schedule is in compliance with this subsection and regulations issued under this Act. Such a hearing may be ordered by the Commission upon the giving of reasonable notice to the interested carrier or carriers and other interested persons and publication of notice of such hearing in the Federal Register. The Commission may commence such a proceeding upon its own motion or upon complaint by any person. The Commission shall order such a hearing if—

"(A) such schedule states a new or initial rate, charge, classification, rule, or regulation, or makes any change in an existing rate, charge, classification, rule, or regulation; and

"(B) any provision of such schedule results or will result in—

"(i) the outbound rate from the United States being greater than the inbound rate to the United States on identical commodities between the same two points, the same ports, or between the same point and the same port; or

"(ii) an increase in any existing disparity between such outbound rate and inbound rate."

Pending such hearing and the decision thereon, the Commission, by filing with such schedule, and delivering to the carrier or carriers affected thereby, a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, charge, classification, rule, or regulation, for a period or periods not exceeding one hundred and eighty days in the aggregate beyond the time when it would otherwise go into effect. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change of rate, charge, classification, rule, or regulation shall go into effect at the end of such period. At any hearing under this section the burden of proof to show that the disparity is justified, based upon cost, value of service, or other transportation conditions, shall be upon the carrier or carriers. If, after hearing, the Commission determines that the disparity is in violation of this Act it may reject the filed schedule. Upon rejection by the Commission the schedule shall be void and its use unlawful. The Commission shall give preference to the hearing and decision of such questions and decide the same as speedily as possible.

The amendment was agreed to.

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

The title was amended, so as to read: "A bill to provide for a system of uniform commodity descriptions and codes and tariffs filed with the Federal Maritime Commission, and for other purposes."

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, beginning with the National Corporation for Housing Partnerships.

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

The PRESIDING OFFICER (Mr. STAFFORD). The nominations on the Executive Calendar, beginning with the National Corporation for Housing Partnerships, will be stated.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

The second assistant legislative clerk proceeded to read sundry nominations in the National Corporation for Housing Partnerships.

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

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

FEDERAL COMMUNICATIONS COMMISSION

The second assistant legislative clerk read the nomination of James H. Quello, of Michigan, to be a member of the Federal Communications Commission.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

OFFICE OF TELECOMMUNICATIONS POLICY

The second assistant legislative clerk read the nomination of John Eger, of Virginia, to be Deputy Director of the Office of Telecommunications Policy.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

ROUTINE NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force, in the Army, in the Navy, and in the Marine Corps, which had been placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

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

The PRESIDING OFFICER. 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.

INFLATION AND THE STATUS OF THE ECONOMY

Mr. MANSFIELD. Mr. President, yesterday, I addressed the Senate on the question of the current status of the economy; particularly as it has been devastated by an inflationary rate that has mushroomed to the brink of crisis proportions. I urged that steps be taken to retain some facility within the wage and price framework to keep abreast of inflation, to monitor it and, if need be, to act immediately in order to avert a national crisis. It is a proposition in which I have joined along with Senator MUSKIE, Senator STEVENSON, and many other Senators.

Yesterday the Wall Street Journal published an article by Dr. Walter Heller on this issue. As one of the Nation's leading economists, Dr. Heller's views are always welcome and I ask unanimous consent that his article be printed in the RECORD to enable all Senators to know his thoughts and suggestions on this matter.

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

THE UNTIMELY FLIGHT FROM CONTROLS

(By Walter W. Heller)

Congress is about to outdo the White House in running away from the inflation problem:

While correctly observing that business and labor are bitterly opposed to wage-price controls—and that consumer views range from skeptical to cynical—Congress is mistakenly sending such controls to the gas chamber rather than putting them in cold storage.

While correctly concluding that broad-scale mandatory controls had outlived their usefulness in an excess-demand, shortage-plagued economy, Congress is mistakenly walking away from its responsibility to assert the public interest in price-wage moderation in an economy plagued by softening demand and rising unemployment.

While correctly observing that the White House has done its level worst to discredit controls, Congress is mistakenly refusing even to give John Dunlop and the Cost of

Living Council the leverage they need to insure that the pledges of price moderation and supply increases made in exchange for early de-control by many industries will be redeemed.

Granting that controls are in ill repute, one wonders how Congress can explain to itself today—let alone to voters next fall—the discarding of all wage-price restraints in the face of record rates of inflation of 12% in the cost of living and 15% in wholesale prices (including an ominous 35% rate of inflation last month in industrial commodity prices). Is it the product of a growing "what's-the-use" attitude? Is it an implicit surrender to an inflation that is deemed in part to be woven into the institutional fabric of our economy and in part visited upon us by uncontrollable external forces like world food and material shortages and oil cartels? In short, is inflation now thought to be not just out of control but beyond our control?

MILTON FRIEDMAN'S STREAK

An affirmative answer to these brooding questions seems to underlie Milton Friedman's recent economic streak—one which evokes surprise, astonishment, and disbelief in the best streaking tradition—from Smithian laissez-faire to Brazilian indexation. At present, we use the cost-of-living escalator selectively to protect 32 million Social Security and civil service beneficiaries and 13 million recipients of food-stamps and to hedge inflation bets in wage contracts for 10% of the labor force. Mr. Friedman would put all groups—those who profit from inflation and those who suffer from it alike—on the inflation escalator and thus help institutionalize our present double-digit rates of inflation.

Meanwhile, interest rates are soaring as Authur Burns and the Fed man their lonely ramparts in the battle against inflation. With wage-price control headed for oblivion in the face of seething inflation, the Fed apparently views itself as the last bastion of inflation defense. So it is adding to the witches' brew by implicitly calling on unemployment and economic slack to help check the inflation spiral.

In this atmosphere, and deafened by the drumfire of powerful labor and business lobbies, Congress seems to have closed its mind to the legitimate continuing role of price-wage constraints. What is that role in an economy relying primarily, as it should, on the dictates of the marketplace?

First are the important transitional functions of the Cost of Living Council for which Mr. Dunlop, with vacillating support from the White House, asked congressional authority. In its new form after April 30 the Council would have:

Enforced commitments made by the cement, fertilizer, auto, tire and tube, and many other de-controlled industries to restrain prices and-or expand supplies—commitments that would become unenforceable when COLC goes down the drain with the Economic Stabilization Act on April 30;

Protected patients against an explosion of hospital fees by keeping mandatory controls on the health-care industry until Congress adopts a national health insurance plan;

Prevented an early explosion of construction wages and the associated danger that housing recovery might be crippled;

Maintained veto power over wage bargains that are eligible for reopening when mandatory controls are lifted.

Beyond Phase 4's post-operative period, government needs to assert its presence in wage-price developments in several critical ways.

The first would be to continue the important function of monitoring other government agencies, of keeping a wary anti-inflationary eye on their farm, labor, trade, transport, energy and housing policies. The point is to protect consumers from the price consequences of the cost-boosting and price-propping activities of the producer-oriented agencies. The White House could continue this function without congressional authority, but a statutory base would give the watchdog agency much more clout.

Second would be the task of working with industry, labor, and government units to improve wage bargaining and relieve bottleneck inflation by encouraging increased production of scarce goods and raw materials.

Third, and by far the most important, would be the monitoring of major wage bargains and price decisions and spotlighting those that flout the public interest.

The trauma of Phases 3 and 4 has apparently blotted out memories of the painfully relevant experience of 1969–71:

The school's-out, hands-off policy announced by Mr. Nixon early in 1969 touched off a rash of price increases and let a vicious wage-price spiral propel inflation upward even while the economy was moving downward.

Only when Mr. Nixon finally moved in with the powerful circuit-breaker of the 90-day freeze was the spiral turned off.

Today, the urgent task is to see that it's not turned on again. In that quest, some forces are working in our favor:

Much of the steam should be going out of special-sector inflation in oil, food, and raw materials.

The pop-up or bubble effect of ending mandatory controls should work its inflationary way through the economy by the end of the year.

As yet, wage settlements show few signs of shooting upwards as they did in 1969–70, when first-year increases jumped from 8% to 16% in less than a year. Wage moderation in 1973—induced in part by wage controls, but even more by the absence of inordinate profits in most labor-intensive industries and by the fact that the critical bottlenecks were in materials and manufacturing capacity rather than in labor supply—has set no high pay targets for labor to shoot at.

Thus far in 1974, the aluminum, can, and newly signed steel settlements won't greatly boost those targets. So the wage-wage spiral is not yet at work. Since, in addition, cost-of-living escalators apply to only one-tenth of the U.S. work force, the ballooning cost of living has not yet triggered a new price-wage spiral. Still, there is a distinct calm-before-the-storm feeling abroad in the land of labor negotiations.

A MODERATION IN INFLATION

With demand softening and shortages easing in large segments of the economy, the old rules of the marketplace would suggest that inflation is bound to moderate. And the odds are that it will—but how fast, how far, and how firmly is another matter. And that's where a price-wage monitor with a firm statutory base is badly needed. It could play a significant role in inducing big business to break the heady habit of escalating prices and in forestalling big labor's addiction to double-digit wage advances.

Industry after industry has gotten into the habit of raising prices on a cost-justified basis as energy, food, and raw material prices skyrocketed. De-control will reinforce that habit.

Once these bulges have worked their way through the economy, we tend to assume that virulent inflation will subside. Indeed, in some areas such as retailing, farm products, small business, and much of unorganized labor, competitive market forces will operate to help business and labor kick the inflationary habit.

But in areas dominated by powerful unions and industrial oligopolies, a prod is needed if habitual inflation—inflation with no visible means of support from underlying supply and demand conditions in the economy—is to be broken. If it is not, the threat of a wage break-out will loom large in upcoming wage negotiations in the construction, communications, aerospace, shipbuilding, airlines, mining, and railroad industries. In those critical negotiations, the wage moderation of the past two years could go up in smoke if the ebbing of non-labor cost pressures is simply converted into profits rather than being shared with consumers in price moderation.

Congress and the White House are taking undue risks if they rely entirely on market forces to achieve this end, especially in those large areas of the economy where competitive forces are not strong enough to protect the consumer. To serve as his ombudsman and to help prevent the picking of his pocket by a management-labor coalition, the consumer needs a watchdog agency that will bark and grow and occasionally bite. Such an agency—which could accomplish a good deal by skillful exercise of the powers of inquiry and publicity and much more if it were able to draw, sparingly, on powers of suspension and rollback when faced with gross violations and defiance—could provide substantial insurance against inflation by habit.

CONTENTS OF AN ACTION PROGRAM

An action program to accomplish the foregoing would have included—indeed, given a miracle of courage, conviction and speed, could still include—the following elements:

A quick and simple extension of the standby powers of the Economic Stabilization Act.

Granting of the authority requested by John Dunlop for the transitional period.

The establishment of a monitoring agency—preferably by statute and equipped with last-resort suspension and rollback powers, but if that is not to be, then by White House action and relying mainly on instruments of inquiry and publicity—to look over the shoulder of big business and big labor on behalf of the consumer.

To declare open season on wage-price decisions under present circumstances—as we seem hell-bent to do in our disenchantment with controls and sudden revival of faith in the market system—would be one more example of the classic action-reaction pattern that excludes the middle way. The Congress and the country may well rue the day when, largely at the behest of big business and organized labor, the government presence in their price and wage decisions was mindlessly liquidated, leaving the consumer to fend for himself.

The PRESIDING OFFICER. Does the acting minority leader seek recognition?

Mr. GRIFFIN. Yes, Mr. President.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

INFLATION

Mr. GRIFFIN. Mr. President, the junior Senator from Michigan listened with interest on yesterday to the distinguished majority leader as he spoke on the subject of inflation.

I have also noted news reports that some of the Members of this body are proposing a tax cut as the answer to the current economic problems of the Nation.

A newspaper that does not ordinarily find itself in agreement with policies of the administration carried an interesting and incisive editorial this morning concerning the wisdom—or rather the lack of wisdom—of proposing a tax cut at this time. Because I believe it

would be worthwhile reading for those in and out of the Senate, I ask unanimous consent that an editorial published in this morning's Washington Post, entitled "The Rising Inflation," be printed in the RECORD.

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

THE RISING INFLATION

Everybody knew that the country was in the midst of a savage inflation and, simultaneously, a decline in economic production. The importance of the statistics over the past several days is the revelation that the reality is a good deal worse than the expectation. What ought the President and his administration do about it?

The practice of American politics is based on the premise that the government has a duty to respond, immediately and visibly, to every instance of severe public distress. The activist impulse urges an attack of some sort, on the assumption that doing anything is better than doing nothing in a time of public anxiety. But this case is the exception, and for the time being it is clearly wiser and better for the administration not to try to change policy. It is not a good time to start fiddling loudly with the valves and throttles on the great and intricate machine that is the national economy.

As the figures show, the quarterly drop in the Gross National Product is the most severe in the 14 years since the Eisenhower administration's last and worst recession. The last time the quarterly inflation reached the present level was in the Truman administration, early in the Korean war. In each case the trouble, although serious, was comprehensible and there was an obvious remedy for it. When the Korean war sent prices up, the proper response was price controls and tighter credit. Prices returned to relative stability with remarkable speed. As for the 1958 drop in GNP, it was painful and damaging but it followed the normal postwar pattern of recessions and responded fairly well to the normal strategies of economic stimulation. The trouble now is that we are not dealing simply with 1951's inflation or 1958's recession, but with both of them together and the cure for each aggravates the other.

A great deal of attention is now being squandered on the doctrinal debate as to whether we are in a recession. Since President Nixon guaranteed the country several months ago that there would be no recession, the topic naturally draws a certain amount of polemic interest. But the debate over the term only obscures a clear view of our present condition. Calling it a recession suggests that we are merely dealing with another swing in the familiar business cycle, to be remedied by the familiar antidotes like, for example, cutting taxes.

On cue, Sens. Edward M. Kennedy, Walter F. Mondale and Hubert Humphrey now propose a huge $5.9 billion tax cut. There is a long list of good reasons why this conventional response is the wrong one. As the administration observes, the effect of a tax cut would only begin to appear many months from now around the beginning of next year. Another reason—one that the administration does not make—is that the prospective impeachment of President Nixon makes it utterly unlikely that Congress will have the time or attention for the intricate, carefully crafted legislation that taxation requires. It is also necessary to point out that there have been two heavy cuts in income taxes since Mr. Nixon took office, and they are part of the reason for our present trouble with inflation. The federal government has large and growing social responsibilities to the American people and it cannot meet those responsibilities if it keeps cutting taxes.

Tax cut proposals on these customary lines assume that production is down because consumers have no money with which to buy. They assume that there is widespread unused capacity in American industry. But that is hardly a recognizable description of the present case. The main reasons for the precipitous fall in GNP last winter were confined, to an extraordinary degree, to two industries: automobile and housing. Automobile sales were down, obviously, because of the oil crisis. Housing declined because of unprecedentedly high interest rates. They are still climbing, by the way, and a number of big banks have now posted their prime rates over 10 per cent, a hair-raising figure.

At this point it is worth considering the administrations analysis of the dilemma. The inflation has overtaken the rise in income, and that is why consumers are not buying as much as they did a year ago. They are spending more of their money, as the decline in savings shows, but the money buys less in volume. That, the administration now believes, is the most serious of the threats to the prospect of getting the GNP moving upward again. It follows that the proper response is cutting the inflation rate rather than resorting to standard antirecession remedies that will make inflation worse.

Regarding inflation, the administration continues to hope that the worst will be over by summer. The theory is that we are now absorbing the worst effects of last year's spectacular runup of world commodity prices—most notoriously oil and foodstuffs, but also a wide variety of metals and fibers. Oil prices now seem likely to come down a bit, and food prices are already declining in anticipation of a very good crop. By summer, the theory continues, the American inflation rate will fall back to what the economists are now calling the "underlying" rate. That means about 6 per cent a year, compared with the present 11 per cent . If this drop occurs, interest rates will also come down and the administration will have much wider latitude in dealing with an unemployment rate which, by then, will probably be moving up.

For the present, it is most important not to introduce any change that would make the inflation worse. In its social effects, the rising inflation is currently the greater menace than unemployment. For at least another month, the best course is the present one. Although it goes against the grain to say so, the most sensible thing to do right now is nothing.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the distinguished Senator from Minnesota (Mr. MONDALE) is now recognized for not to exceed 15 minutes.

THE NEED FOR AN EMERGENCY INTERNATIONAL CONFERENCE ON INFLATION

Mr. MONDALE. Mr. President, I have just returned from a week in Europe where I talked at length with the business, industrial, and political leaders of the major Western European countries. My purpose was to learn what I could about the future unity of Europe and the viability of the Atlantic Alliance. I have returned with the conviction that this unity, that our alliance, and indeed the foundations of Western democratic society, are in great jeopardy.

One year ago today, the Secretary of State made his year of Europe speech in which he sought a new Atlantic Charter. As I set out for Europe, I wanted to know whether that impulse to rebuild our neglected relations with Europe was still operative. I wondered whether we cared any longer about the Atlantic relationship; whether we still supported the goal of a united Europe; or whether we had become lost in bickering and polemics over secondary issues such as the wording of declarations and the protocol of how to consult among the allies.

I am sorry to say that my concerns on these points were all reinforced. The year of Europe has not only failed to reinvigorate the alliance, but even more important, it has diverted our attention from the most significant issue facing the United States, our allies, and indeed the entire non-Communist world.

This issue is inflation. It was the overriding concern of virtually everyone I saw. And this concern was not simply economic or financial. It was not confined to bankers and industrialists. Inflation was the concern of people who are worried that the structure of our democratic societies cannot endure the level of inflation which is now ravaging every democratic country in the world.

All the major industrial nations now suffer from double digit inflation. Our consumer inflation is the worst since World War II, more than 14 percent; Great Britain may approach 16 percent; France has more than 11 percent; Italy 13 percent; Japan a massive 26 percent. We have not had such a period of inflation in the industrialized world since the 1920's. We all know how the inflation that swept the world in the 1920's paved the way for the Great Depression, for the destitution of the middle classes, for tyranny, and, finally, for World War II.

During my visit to Europe it was frequently brought to my attention that no nation has ever experienced inflation of greater than 20 percent and survived as a democratic society. Today, we are all pushing toward that 20 percent breaking point.

There are wide differences over the cause of the current inflation. Some believe it is the traditional problem of too much demand—too many dollars, marks, yen, chasing too few goods. This view leads to traditional prescriptions, reduced national budgets, and tighter monetary policies.

Yet, in many countries such as in the United States, productivity is falling even as inflation accelerates. In my view, this is the clearest indication that we are not faced with a traditional situation, nor can traditional remedies alone be successful.

There may be excess demand in certain countries and fiscal irresponsibility in certain governments. Indeed, we have seen major mismanagement of our economy by this administration. But there is also a profound cost-push dimension to the current worldwide inflation. Oil is an obvious example; food yet another; the overall price of remaining basic commodities last year rose an estimated 70 percent.

A second major point that emerged from my talks in Europe is that no one really knows what to do about this inflation. Some solutions are dangerous—for example, exporting inflation to other

countries by imposing export limitations. This can lead to retaliation and even greater international economic instability.

In addition, there are dangers of further international cartels along the lines of OPEC, cartels covering everything from coffee and bananas to bauxite. Indeed, while in Europe, I heard very compelling warnings that OPEC has just begun and that we can expect spectacularly rising prices if OPEC can have its way—even above those we now suffer from. But the most worrisome fact, in my view, is that no concerted effort is being made to deal with the problem of inflation on the scale that is required.

Inflation is an international problem and the solution requires international action. This does not mean that we can blame others for our own shortcomings, nor fail to act where we can. But it does mean that we must enlist the help of our European allies, of Japan, of the other industrialized countries. We must involve the third world of developing nations which are the source of many basic commodities. And we must provide a role for what has become the "fourth world"—those countries that have neither adequate financial resources nor natural resources, and in which inflation is in fact a threat to human life.

We must abandon the notion that we can cope with inflation by ourselves or bilaterally, or with a handful of major powers. There must be a new bargain between the developed countries and the developing countries, and a joint effort among the industrialized nations for solutions to the problems of inflation.

Above all, we must make this issue a central concern of our foreign policy before it devours our Western democratic institutions. We must put aside petty maneuvering with our allies. We must take some time out from the status symbols of international relations—SALT, Middle East, personal diplomacy—and devote real effort to this problem that affects all Americans everyday—the increasing cost of living, and the corresponding decreasing quality of our lives.

The industrialized countries of the world today share not only inflation, but also weak governments. Minority governments in Great Britain and Canada, realinements in Scandanavia, declining popularity for the governments in West Germany and Japan, uncertainty in France, and at home the threat of impeachment. There is clearly widespread disillusion with the democratic process. If we add to this malaise a failure to deal with inflation—which can destroy the economic security upon which democracy is based—then all the superpower arrangements, all the arms control agreements, all the diplomatic maneuvering in the world will not save our way of life, nor insure international peace, nor provide a future that is economically secure and yet free.

As inflation has risen over the last several years, the number of democratic governments has declined. I cannot prove a direct connection but I believe that inflation is the most reactionary force in the world today—one which eats at the heart of popular support for democracy.

I, therefore, call on this administration to seek urgently a broad international conference on inflation. Just as the United Nations and the North Atlantic Alliance were based on the concept of collective international security, the purpose of this conference would be to hammer out the basis of a new collective economic security. The first task would be to understand causes of the current world inflation. The second task would be to develop the programs and institutions required to deal with it.

I realize that international conferences can be a waste of time. However, I believe that if we take the leadership to raise this issue with other countries, they would not fail to respond. If we carefully consult others and seriously prepare its work, this conference can begin to come to grips with a problem that no longer respects national boundaries. But for such a conference to succeed, it must develop a vision of a new relationship between the developed northern and developing southern halves of our world. Without such a vision and without such an effort, there can be no lasting economic stability. And it has been this stability and the resulting prosperity which has provided the foundation for democratic governments for the last quarter century.

The time for action is now. The problem will not wait. The point at which hyperinflation breaks out, where inflation feeds on itself, may be only a few digits away. Once it strikes, the world may never again be the same.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri (Mr. EAGLETON) is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order recognizing Mr. EAGLETON be vacated.

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

Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

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

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my time be vacated and that morning business be substituted therefor, with statements therein limited to 5 minutes each.

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

Is there morning business?

Mr. STAFFORD. 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.

GREAT OPPORTUNITY FOR CONGRESS

Mr. MANSFIELD. Mr. President, it was with great interest that I read an editorial in the Baltimore Sun under date of Saturday, April 20, 1974. I think it was a good editorial. The title of it is "Great Opportunity for Congress."

Under that caption, the editorial recited seven—to use its words—"significant" or "historic" proposals on which Congress has yet to act during this session.

With regard to these seven, may I say that, for its part, the Senate has acted or is presently acting on all save one of the items mentioned, and with regard to that one, it involves funding of a national health care plan on which, under the Constitution, action must be initiated by the House of Representatives. As for the others—campaign reform, budget reform, land use planning, strip mining safeguards and pension reform—the Senate has already passed strong and effective measures. The remaining item mentioned is the proposal to reduce insurance costs and expedite the handling of claims through a system of no-fault insurance. That measure, of course, is the pending order of business in the Senate.

Not only has the Senate addressed and disposed of the tasks enumerated by this editorial; it has accomplished a great deal more.

Just taking the first 2½ months of this session, the record is as fine as any before compiled. In that brief period, 142 measures have passed the Senate. In addition to campaign and budget reform, the list includes an increased and expanded minimum wage authority, the creation of a legal services corporation, a comprehensive housing and community development program and of course the comprehensive emergency energy program that ultimately was cut down by the President's veto. The entire list was incorporated in the record on April 11, the day the Senate went out for its Easter recess.

Of course, there is more to do and the Senate will do it. Following the no-fault measure, the Senate will take up the education bill. The measure to create a consumer protection agency will soon be ready for floor action. Health insurance and tax reform proposals will be addressed as soon as the House and the Senate Finance Committee have finished their work. There may soon be a vehicle ready on which to effect an increase in the personal exemption in the lower income group.

Of course, a number of proposals remain in the energy area including the Energy Resources and Development Act, the Energy Corporation proposal now

pending in the Commerce Committee and others.

What the Senate has demonstrated so far this session is a capacity to address the major issues and dispose of them. It will continue to do so.

I ask unanimous consent that the Baltimore Sun editorial be printed at this point in the RECORD.

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

GREAT OPPORTUNITY FOR CONGRESS

The 93d Congress is likely to be remembered in history as the Congress that did or did not impeach Richard Nixon. But as fate would have it, a lot of other historic legislative choices have been forced upon the 93d, and its reputation is also going to be affected by its response to those choices. Unfortunately, there is only so much time, and if Congress tries to conduct business as usual in 1974, it may find it cannot act at all on some of the priority legislation pending. After all, an impeachment debate in the House and an impeachment trial in the Senate (that those two events will occur is becoming increasingly probable) will take up a great deal of time, perhaps a total of two months or more. This is an election year, which means Congress will try to adjourn by October. So when the members return from the Easter vacation next week, there will only be five months left in the session if no August recess is taken. That is enough to do what must be done only if Congress puts aside business-as-usual methods.

Ironically, one significant piece of legislation that may not become law because of the business-as-usual mood of the House Democratic leaders is a campaign reform bill. Watergate has made the public acutely aware of reform in this area. The Senate has now passed two far-reaching bills dealing with spending, contributions and other murky areas of campaigning. One bill goes too far for us and many other advocates of reform. That bill would provide full federal funding for candidates for federal offices. But House leaders have used opposition to this to justify inactivity on any reform. Promises by House leaders to let the House vote on reform measures have gone unkept. If delays continue, the question of the motives of the leadership will have to be answered.

Another historic reform in the field of government has passed both House and Senate in different forms and awaits conference agreement. That is the legislation to give Congress—for the first time—apparatus to allow it to oversee the federal budget from the same perspective as the executive branch. That is, to see it whole. Now Congress approaches the budget like the blind men approached the elephant. Everybody is familiar with a little of it and no one is familiar with all of it.

The House has let its committees get awfully out of date. It has been over a quarter of a century since the committee structure was rearranged. A special panel has proposed some changes. The time seems ripe for it. It would be a shame if the House allowed the press of impeachment and the looming election to cause it to slip for the moment.

The time is also ripe for a major departure in the way health care is provided and paid for. Conservatives and liberals, Democrats and Republicans agree on that. There is remarkable agreement among the experts in both parties on what should be done. Congress has not yet acted on this legislation, however, not even in committee. The need for urgency after the recess should be evident to all.

An unusual amount of other new-departure legislation is being considered on Capitol Hill—land use, no-fault insurance, federal standards for private pensions, tough new standards for strip mining, and a few other measures. If Congress comes back from the recess determined to do more than business as usual, the 93d could be an important one regardless of what turn the impeachment story takes.

ORDER FOR DIVISION OF TIME DURING CONSIDERATION OF S. 3231

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on the bill S. 3231, poultry and egg producers indemnity payments, be divided between the manager of the bill and Mr. CLARK, the chief opponent of the 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. 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.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HUGHES) laid before the Senate the following letters, which were referred as indicated:

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties, entered into by the United States, with accompanying papers. Referred to the Committee on Foreign Relations.

PROPOSED LEGISLATION BY OFFICE OF MANAGEMENT AND BUDGET

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the Federal Property and Administrative Services Act of 1949, as amended, the Armed Services Procurement Act of 1947, as amended, and the TVA Act of 1933, as amended, to authorize the negotiation of contracts where the aggregate amount involved does not exceed $10,000, with accompanying papers. Referred to the Committee on Government Operations.

MONTHLY LIST OF GAO REPORTS

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office of the previous month, with an accompanying report. Referred to the Committee on Government Operations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the Rural Telephone Bank for Fiscal Year Ended June 30, 1973," Department of Agriculture, dated April 12, 1974 with an accompanying report. Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Comprehensive Health Planning as Carried Out by State and Areawide Agencies in Three States," Department of Health, Education, and Welfare, dated April 18, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Review of Testing and Evaluation Policies and Procedures," Department of Defense, dated April 18, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Financial Statements, Government Printing Office, Fiscal Year 1973," dated April 15, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Financial Statements, Inter-American Foundation, Fiscal Year 1973," dated April 11, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Better Use Should Be Made of Physicians and Dentists in Health Centers," Office of Economic Opportunity, Department of Health, Education, and Welfare, dated April 9, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

REPORT OF PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

A letter from the Chairman, Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, a report of the Corporation dated March 1974 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

REPORT OF DEPARTMENT OF THE INTERIOR

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a report giving a description of a project tentatively selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations or other institutions, and with private firms, as authorized under the Water Resources Research Act of 1964 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

PROPOSED CONTRACT OF DEPARTMENT OF THE INTERIOR

A letter from the Acting Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a copy of a proposed contract for a research project entitled "Evaluating Resin and Mechanical Roof Bolting Systems for Strata-Bound Deposits (with an accompanying paper). Referred to the Committee on Interior and Insular Affairs.

REPORT OF ADVISORY COUNCIL ON HISTORIC PRESERVATION

A letter from the Vice Chairman, Advisory Council on Historic Preservation, transmitting, pursuant to law, a report on its meeting to consider GSA's proposed construction of a new Federal Home Loan Bank Board building in Washington, D.C. (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION BY ATTORNEY GENERAL

A letter from the Attorney General of the United States, transmitting a draft of proposed legislation to amend the Antitrust Civil Process Act to increase the effectiveness of discovery in civil antitrust investigations (with accompanying papers). Referred to the Committee on the Judiciary.

REPORT OF THE AMERICAN ACADEMY OF ARTS AND LETTERS

A letter from the President, the American Academy of Arts and Letters, reporting, pur-

suant to law, on its activities for the year ended December 31, 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

REPORT OF AMERICAN REVOLUTION BICENTENNIAL COMMISSION

A letter from the Acting Administrator, American Revolution Bicentennial Administration, transmitting, pursuant to law, its 1973 final report (with an accompanying report). Referred to the Committee on the Judiciary.

REPORT OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the first interim report on the administration of the Health Professions Educational Assistance Act, and its subsequent amendments (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

REPORTS OF THE OFFICE OF EDUCATION

A letter from the Commissioner of Education transmitting, pursuant to law, three final reports of certain advisory groups to the Office of Education (with accompanying reports). Referred to the Committee on Labor and Public Welfare.

REPORT OF THE NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

A letter from the Chairman of the National Advisory Council on Adult Education transmitting, pursuant to law, the annual report on adult education (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

REPORT ON NURSE TRAINING

A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the first interim report on the administration of title VIII (Nurse Training) of the Public Health Service Act (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

UPSTREAM WATERSHED PROTECTION PLANS

A letter from the Acting Director of the Office of Management and Budget transmitting, pursuant to law, four work plans for upstream watershed protection (with accompanying papers). Referred to the Committee on Public Works.

REPORT OF JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

A letter from the Chairman, John F. Kennedy Center for the Performing Arts, transmitting, pursuant to law, a report for fiscal year 1973 (with an accompanying report). Referred to the Committee on Public Works.

PROPOSED LEGISLATION BY SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Highway Beautification Act of 1965, as amended (with accompanying papers). Referred to the Committee on Public Works.

PROPOSED ALTERATIONS TO FEDERAL BUILDINGS

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, prospectuses which propose alterations to certain Federal buildings (with accompanying papers). Referred to the Committee on Public Works.

FEDERAL ENERGY ADMINISTRATION ACT OF 1974—CONFERENCE REPORT—(S. REPT. NO. 93-788)

Mr. RIBICOFF. Mr. President, from the committee of conference on H.R. 11793, I submit the report of the conferees.

I ask unanimous consent that the report with the statement of managers be printed in the RECORD.

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

CONFERENCE REPORT (S. REPT. NO. 93-788)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11793) to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Energy Administration Act of 1974".

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby declares that the general welfare and the common defense and security require positive and effective action to conserve scarce energy supplies, to insure fair and efficient distribution of, and the maintenance of fair and reasonable consumer prices for, such supplies, to promote the expansion of readily usable energy sources, and to assist in developing policies and plans to meet the energy needs of the Nation.

(b) The Congress finds that to help achieve these objectives, and to assure a coordinated and effective approach to overcoming energy shortages, it is necessary to reorganize certain agencies and functions of the executive branch and to establish a Federal Energy Administration.

(c) The sole purpose of this Act is to create an administration in the executive branch, called the Federal Energy Administration, to vest in the Administration certain functions provided in this Act, and to transfer to such Administration certain executive branch functions authorized by other laws, where such transfer is necessary on an interim basis to deal with the Nation's energy shortages.

ESTABLISHMENT

SEC. 3. There is hereby established an independent agency in the executive branch to be known as the Federal Energy Administration (hereinafter in this Act referred to as the "Administration").

OFFICERS

SEC. 4. (a) There shall be at the head of the Administration an Administrator (hereinafter in this Act referred to as the "Administrator"), who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall receive compensation at the rate prescribed for offices and positions at level II of the Executive Schedule (5 U.S.C. 5313). The Administration shall be administered under the supervision and direction of the Administrator.

(b) (1) The functions and powers of the Administration shall be vested in and exercised by the Administrator.

(2) The Administrator may, from time to time and to the extent permitted by law, consistent with the purposes of this Act, delegate such of his functions as he deems appropriate.

(c) There shall be in the Administration two Deputy Administrators, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for offices and positions at level III of the Executive Schedule (5 U.S.C. 5314)

(d) There are authorized to be in the Administration six Assistant Administrators, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for offices and positions at level IV of the Executive Schedule (5 U.S.C. 5315).

(e) There shall be in the Administration a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for offies and positions at level IV of the Executive Schedule (5 U.S.C. 5315).

(f) (1) There are authorized to be in the Administration not more than nine additional officers who shall be appointed by the Administrator and shall receive compensation at the rate prescribed for offices and positions at level V of the Executive Schedule (5 U.S.C. 5316).

(2) If any person, other than an officer within subsections (c), (d), or (e) of this section, is to be assigned principal responsibility for any program that shall be instituted in the Administration for either (i) allocation, (ii) pricing, (iii) rationing (if effected), or (iv) Federal and State coordination, he shall be one of the officers authorized by paragraph (1) of this subsection except that he shall be appointed by the President by and with the advice and consent of the Senate.

(3) Appointments to the positions described in this subsection may be made without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service.

(g) Subject to subsection (f) of this section, officers appointed pursuant to this section shall perform such functions as the Administrator shall specify from time to time.

(h) The Administrator shall designate the order in which the Deputy Administrators and other officials shall act for and perform the functions of the Administrator during his absence or disability or in the event of a vacancy in his office.

(i) (1) For the purposes of this Act, section 208(b) of title 18, United States Code, relating to conflicts of interest, can be invoked and implemented only by the Administrator personally. Such subsection shall not be invoked as to any person unless and until—

(A) the Congress has received, ten days prior thereto, a written report containing notice of the Administrator's intention so to invoke such subsection, a detailed statement of the subject matter concerning which a conflict exists; and in the case of an exemption set forth in clause (1) of such subsection, the nature of an officer's or employee's financial interest; or in the case of an exemption set forth in clause (2) of such subsection, the name and statement of financial interest of each person who will come within such exemption; and

(B) such written report is published in the Federal Register.

(2) Nothing contained in this subsection shall affect in any way the applicability or operation of other laws relating to officers and employees of the United States Government.

(j) No individual holding any of the positions described in subsection (a), (c), (d), and (e) of this section may also hold any other position in the executive branch during the same period.

FUNCTIONS AND PURPOSES OF THE FEDERAL ENERGY ADMINISTRATION

SEC. 5. (a) Subject to the provisions and procedures set forth in this Act, the Administrator shall be responsible for such actions as are taken to assure that adequate provision is made to meet the energy needs of the Nation. To that end, he shall make such plans and direct and conduct such programs related to the production, conservation, use, control, distribution, rationing, and allocation of all forms of energy as are appropriate in connection with only those authorities or functions—

(1) specifically transferred to or vested in him by or pursuant to this Act;

(2) delegated to him by the President pursuant to specific authority vested in the President by law; and

(3) otherwise specifically vested in the Administrator by the Congress.

(b) To the extent authorized by subsection (a) of this section, the Administrator shall—

(1) advise the President and the Congress with respect to the establishment of a comprehensive national energy policy in relation to the energy matters for which the Administration has responsibility, and, in coordination with the Secretary of State, the integration of domestic and foreign policies relating to energy resource management;

(2) assess the adequacy of energy resources to meet demands in the immediate and longer range future for all sectors of the economy and for the general public;

(3) develop effective arrangements for the participation of State and local governments in the resolution of energy problems;

(4) develop plans and programs for dealing with energy production shortages;

(5) promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise;

(6) assure that energy programs are designed and implemented in a fair and efficient manner so as to minimize hardship and inequity while assuring that the priority needs of the Nation are met;

(7) develop and oversee the implementation of equitable voluntary and mandatory energy conservation programs and promote efficiencies in the use of energy resources;

(8) develop and recommend policies on the import and export of energy resources;

(9) collect, evaluate, assemble, and analyze energy information on reserves, production, demand, and related economic data;

(10) work with business, labor, consumer and other interests and obtain their cooperation;

(11) in administering any pricing authority, provide by rule, for equitable allocation of all component costs of producing propane gas. Such rules may require that (a) only those costs directly related to the production of propane may be allocated by any producer to such gas for purposes of establishing any price for propane, and (b) prices for propane shall be based on the prices for propane in effect on May 15, 1973. The Administrator shall not allow costs attributable to changes in ownership and movement of propane gas where, in the opinion of the Administrator, such changes in ownership and movement occur primarily for the purpose of establishing a higher price; and

(12) perform such other functions as may be prescribed by law.

TRANSFERS

SEC. 6. (a) There are hereby transferred to and vested in the Administrator all functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department—

(1) as relate to or are utilized by the Office of Petroleum Allocation;

(2) as relate to or are utilized by the Office of Energy Conservation;

(3) as relate to or are utilized by the Office of Energy Data and Analysis; and

(4) as relate to or are utilized by the Office of Oil and Gas.

(b) There are hereby transferred to and vested in the Administrator all functions of the Chairman of the Cost of Living Council, the Executive Director of the Cost of Living Council, and the Cost of Living Council, and officers and components thereof, as relate to or are utilized by the Energy Division of the Cost of Living Council.

ADMINISTRATIVE PROVISIONS

SEC. 7. (a) (1) The Administrator may appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him, and prescribe their authority and duties. In addition to the number of positions which may be placed in GS-16, 17, and 18 under existing law, not to exceed 91 positions may be placed in GS-16, 17, and 18 to carry out the functions under this Act: *Provided*, That the total number of positions within the Administration in GS-16, 17, and 18 shall not exceed 105: *And provided further*, That, except as provided in paragraph (2) of this subsection, the authority under this subsection shall be subject to the standards and procedures prescribed under Chapter 51 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under this Act.

(2) Twenty-five of the GS-16, 17, and 18 positions authorized by paragraph (1) of this subsection may be filled without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service.

(b) The Administrator may employ experts, expert witnesses, and consultants in accordance with section 3109 of title 5 of the United States Code, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5 of the United States Code for persons in Government service employed intermittently.

(c) The Administrator may promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him; *Provided*, That:

(1) The Administrator shall, before promulgating proposed rules, regulations, or policies relating to the cost or price of energy, transmit notice of such proposed action to the Cost of Living Council and provide a period, which shall not be less than five days from the receipt of such notice, for the Cost of Living Council to approve or disapprove such proposed action. If during the period provided, the Cost of Living Council—

(A) approves such proposed action, it may take effect;

(B) disapproves such proposed action, it shall not take effect; or

(c) fails to either approve or disapprove such proposed action, it may take effect in the same manner as if the Cost of Living Council had given its approval.

(2) The Administrator shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five days from receipt of notice of the proposed action during which the Administrator of the Environmental Protection Agency may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published along with public notice of the proposed action.

The review required by paragraphs (1) and (2) of this subsection may be waived for a period of fourteen days if there is an emergency situation which, in the judgment of the Administrator, requires immediate action.

(d) The Administrator may utilize, with their consent, the services, personnel, equipment, and facilities of Federal, State, regional, and local public agencies and instrumentalities, with or without reimbursement therefor, and may transfer funds made available pursuant to this Act, to Federal, State, regional, and local public agencies and instrumentalities, as reimbursement for utilization of such services, personnel, equipment, and facilities.

(e) The Administrator shall cause a seal of office to be made for the Administration of such design as he shall approve, and judicial notice shall be taken of such seal.

(f) The Administrator may accept unconditional gifts or donations of money or property, real, personal, or mixed, tangible or intangible.

(g) The Administrator may enter into and perform contracts, leases, cooperative agreements, or other similar transactions with any public agency or instrumentality or with any person, firm, association, corporation, or institution.

(h) The Administrator may perform such other activities as may be necessary for the effective fulfillment of his administrative duties and functions.

(i) (1) (A) Subject to paragraphs (B), (C), and (D) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or regulation, or any order having the applicability and effect of a rule as defined in section 551 (4) of title 5, United States Code, issued pursuant to this Act, including any such rule, regulation, or order of a State or local government agency, or officer thereof, issued pursuant to authority delegated by the Administrator.

(B) Notice of any proposed rule, regulation, or order described in paragraph (A) shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order. In addition, public notice of all rules, regulations, or orders described in paragraph (A) which are promulgated by officers of a State or local government agency shall to the maximum extent practicable be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(C) In addition to the requirements of paragraph (B), if any rule, regulation, or order described in paragraph (A) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than forty-five days after the issuance of any such rule, regulation, or order. A transcript shall be kept of any oral presentation.

(D) Any officer or agency authorized to issue the rules, regulations, or orders described in paragraph (A) shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accord-

ance with paragraph (2) of this subsection when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable by the officer or agency, for considering such requests for action under this paragraph.

(E) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized to issue the rules, regulations, or orders described in paragraph (A) shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any such rule, regulation, or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders, furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request, with such modifications as are necessary to insure confidentiality of information protected under such section 552.

(2)(A) Judicial review of administrative rulemaking of general and national applicability done under this Act, except that done pursuant to the Emergency Petroleum Allocation Act of 1973, may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule, regulation, or order, and judicial review of administrative rulemaking of general, but less than national applicability done under this Act, except that done pursuant to the Emergency Petroleum Allocation Act of 1973, may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule, regulation, or order, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule, regulation, or order is to have effect.

(B) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued thereunder, except any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act: *Provided*, That nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule, regulation, or order of any officer of a State or local government agency may be heard in either (1) any appropriate State court, or (2) without regard to the amount in controversy, the district courts of the United States.

(3) The Administrator may by rule prescribe procedures for State or local government agencies authorized by the Administrator to carry out functions under this Act. Such procedures shall apply to such agencies in lieu of paragraph (1) of this subsection, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least ten days before taking the action.

(j) The Administration, in connection with the exercise of the authority under this Act, shall be considered an independent Federal regulatory agency for the purposes of sections 3502 and 3512 of title 44 of the United States Code.

TRANSITIONAL AND SAVINGS PROVISIONS

SEC. 8. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Administrator, other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) This Act shall not affect any proceeding pending, at the time this Act takes effect, before any department or agency (or component thereof) regarding functions which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals (except as provided in section 7(i)(2) of this Act) shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance of any such proceeding under the same terms and conditions, and to the same extent, that such proceeding could have been discontinued if this Act had not been enacted.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of enactment of this Act. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official as may be appropriate and, in any litigation pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Administrator, or any other official, then such suit shall be continued as if this Act had not been enacted, with the Administrator, or other official as the case may be, substituted.

(j) Final orders and actions of any official or component in the performance of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this Act. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred or delegated by this Act shall apply to the performance of those functions by the Administrator, or any officer or component of the Administration. In the event of any inconsistency between the provisions of this subsection and section 7, the provisions of section 7 shall govern.

(g) With respect to any function transferred by this Act and performed after the effective date of this Act, reference in any other law to any department or agency, or any officer or office, the functions of which are so transferred, shall be deemed to refer to the Administration, Administrator, or other office or officers in which this Act vests such functions.

(h) Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to perform such function; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegations of functions.

(i) Any reference in this Act to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

INCIDENTAL TRANSFERS

SEC. 9. The Director of the Office of Management and Budget is authorized and directed to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with, functions which are transferred by or which revert under this Act, as the Director deems necessary and appropriate to accomplish the intent and purpose of this Act.

DEFINITIONS

SEC. 10. As used in this Act—

(1) any reference to "function" or "functions, shall be deemed to include the exercise to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance", when used in relation to functions, shall de deemed to include the exercise of power, authority, rights, and privileges.

APPOINTMENTS

SEC. 11. (a) Funds available to any department or agency (or any official or component thereof), and lawfully authorized for any of the specific functions which are transferred to the Administrator by this Act, may, with the approval of the President, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

(b) In the event that any officer required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of this Act, or any officer who was performing essentially the same functions immediately prior to the effective date of this Act, to act in such office until the office is filled as provided in

this Act: Provided, That any officer acting pursuant to the provisions of this subsection may act no longer than a period of thirty days unless during such period his appointment as such an officer is submitted to the Senate for its advice and consent.

(c) Transfer of nontemporary personnel pursuant to this Act shall not cause any such employee to be separated or reduced in grade or compensation, except for cause, for one year after such transfer.

(d) Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5 of the United States Code, and who, without a break in service, is appointed in the Administration to a position having duties comparable to those performed immediately preceding his appointment, shall continue to be compensated in his new position at not less than the rate provided for his previous position.

ACCESS TO INFORMATION BY THE COMPTROLLER GENERAL

SEC. 12. (a) For the duration of this Act, the Comptroller General of the United States shall monitor and evaluate the operations of the Administration including its reporting activities. The Comptroller General shall (1) conduct studies of existing statutes and regulations governing the Administration's programs; (2) review the policies and practices of the Administration; (3) review and evaluate the procedures followed by the Administrator in gathering, analyzing, and interpreting energy statistics, data, and information related to the management and conservation of energy, including but not limited to data related to energy costs, supply, demand, industry structure, and environmental impacts; and (4) evaluate particular projects or programs. The Comptroller General shall have access to such data within the possession or control of the Administration from any public or private source whatever, notwithstanding the provisions of any other law, as are necessary to carry out his responsibilities under this Act and shall report to the Congress at such times as he deems appropriate with respect to the Administration's programs, including his recommendations for modifications in existing laws, regulations, procedures, and practices.

(b) The Comptroller General or any of his authorized representatives in carrying out his responsibilities under this section may request access to any books, documents, papers, statistics, data, records, and information of any person owning or operating facilities or business premises who is engaged in any phase of energy supply or major energy consumption, where such material relates to the purposes of this Act, including but not limited to energy costs, demand, supply, industry structure, and environmental impacts. The Comptroller General may request such person to submit in writing such energy information as the Comptroller General may prescribe.

(c) The Comptroller General of the United States, or any of his duly authorized representatives, shall have access to and the right to examine any books, documents, papers, records, or other recorded information of any recipients of Federal funds or assistance under contracts, leases, cooperative agreements, or other transactions entered into pursuant to subsection (d) or (g) of section 7 of this Act which in the opinion of the Comptroller General may be related or pertinent to such contracts, leases, cooperative agreements, or similar transactions.

(d) To assist in carrying out his responsibilities under this section, the Comptroller General may, with the concurrence of a duly established committee of Congress having legislative or investigative jurisdiction over the subject matter and upon the adoption of a resolution by such a committee which sets forth specifically the scope and necessity therefor, and the specific identity of those persons from whom information is sought, sign and issue subpenas requiring the production of the books, documents, papers, statistics, data, records, and information referred to in subsection (b) of this section.

(e) In case of disobedience to a subpena issued under subsection (d) of this section, the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the books, documents, papers, statistics, data, records, and information referred to in subsection (b) of this section. Any district court of the United States within the jurisdiction where such person is found or transacts business may, in case of contumacy or refusal to obey a subpena issued by the Comptroller General, issue an order requiring such person to produce the books, documents, papers, statistics, data, records, or information; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

(f) Reports submitted by the Comptroller General to the Congress pursuant to this section shall be available to the public at reasonable cost and upon identifiable request. The Comptroller General may not disclose to the public any information which concerns or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, except that such information shall be disclosed by the Comptroller General or the Administrator, in a manner designed to preserve its confidentiality—

(1) to other Federal Government departments, agencies, and officials for official use upon request;

(2) to committees of Congress upon request; and

(3) to a court in any judicial proceeding under court order.

INFORMATION-GATHERING POWER

SEC. 13. (a) The Administrator shall collect, assemble, evaluate, and analyze energy information by categorical groupings, established by the Administrator, of sufficient comprehensiveness and particularity to permit fully informed monitoring and policy guidance with respect to the exercise of his functions under this Act.

(b) All persons owning or operating facilities or business premises who are engaged in any phase of energy supply or major energy consumption shall make available to the Administrator such information and periodic reports, records, documents, and other data, relating to the purposes of this Act, including full identification of all data and projections as to source, time, and methodology of development, as the Administrator may prescribe by regulation or order as necessary or appropriate for the proper exercise of functions under this Act.

(c) The Administrator may require, by general or special orders, any person engaged in any phase of energy supply or major energy consumption to file with the Administrator in such form as he may prescribe, reports or answers in writing to such specific questions, surveys, or questionnaires as may be necessary to enable the Administrator to carry out his functions under this Act. Such reports and answers shall be made under oath, or otherwise, as the Administrator may prescribe, and shall be filed with the Administrator within such reasonable period as he may prescribe.

(d) The Administrator, to verify the accuracy of information he has received or otherwise to obtain information necessary to perform his functions under this Act, is authorized to conduct investigations, and in connection therewith, to conduct, at reasonable times and in a reasonable manner, physical inspections at energy facilities and business premises, to inventory and sample any stock of fuels or energy sources therein, to inspect and copy records, reports, and documents from which energy information has been or is being compiled, and to question such persons as he may deem necessary.

(e)(1) The Administrator, or any of his duly authorized agents, shall have the power to require by subpena the attendance and testimony of witnesses, and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence which the Administrator is authorized to obtain pursuant to this section.

(2) Any appropriate United States district court may, in case of contumacy or refusal to obey a subpena issued pursuant to this section, issue an order requiring the party to whom such subpena is directed to appear before the Administration and to give testimony touching on the matter in question, or to produce any matter described in paragraph (1) of this subsection, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(f) The Administrator shall collect from departments, agencies and instrumentalities of the executive branch of the Government (including independent agencies), and each such department, agency, and instrumentality is authorized and directed to furnish, upon his request, information concerning energy resources on lands owned by the Government of the United States. Such information shall include, but not be limited to, quantities of reserves, current or proposed leasing agreements, environmental considerations, and economic impact analyses.

PUBLIC DISCLOSURE OF INFORMATION

SEC. 14. (a) The Administrator shall make public, on a continuing basis, any statistical and economic analyses, data, information, and whatever reports and summaries are necessary to keep the public fully and currently informed as to the nature, extent, and projected duration of shortages of energy supplies, the impact of such shortages, and the steps being taken to minimize such impacts.

(b) Subject to the provisions of this Act, section 552 of title 5, United States Code, shall apply to public disclosure of information by the Administrator: *Provided*, That notwithstanding said section, the provisions of section 1905 of title 18, United States Code, or any other provision of law, (1) all matters reported to, or otherwise obtained by, any person exercising authority under this Act containing trade secrets or other matter referred to in section 1905 of title 18, United States Code, may be disclosed to other persons authorized to perform functions under this Act solely to carry out the purposes of the Act, or when relevant in any proceeding under this Act; and (2) the Administrator shall disclose to the public, at a reasonable cost, and upon a request which reasonably describes the matter sought, any matter of the type which could not be excluded from public annual reports to the Securities and Exchange Commission pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 by a business enterprise exclusively engaged in the manufacture or sale of a single product, unless such matter concerns or relates to the trade secrets, processes, operations, style of work, or apparatus of a business enterprise.

(c) To protect and assure privacy of individuals and confidentiality of personal information, the Administrator is directed to establish guidelines and procedures for handling any information which the Administration obtains pertaining to individuals. He shall provide, to the extent practicable, in such guidelines and procedures a method for allowing any such individual to gain access to such information pertaining to himself.

REPORTS AND RECOMMENDATIONS

SEC. 15. (a) Six months before the expiration of this Act, the President shall transmit to Congress a full report together with his recommendations for—

(1) disposition of the functions of the Administration upon its termination;

(2) continuation of the Administration with its present functions; or

(3) reorganization of the Administration; and

(4) organization of the Federal Government for the management of energy and natural resources policies and programs.

(b) Not later than one year after the effective date of this Act, the Administrator shall submit a report to the President and Congress which will provide a complete and independent analysis of actual oil and gas reserves and resources in the United States and its Outer Continental Shelf, as well as of the existing productive capacity and the extent to which such capacity could be increased for crude oil and each major petroleum product each year for the next ten years through full utilization of available technology and capacity. The report shall also contain the Administration's recommendations for improving the utilization and effectiveness of Federal energy data and its manner of collection. The data collection and analysis portion of this report shall be prepared by the Federal Trade Commission for the Administration. Unless specifically prohibited by law, all Federal agencies shall make available estimates, statistics, data and other information in their files which, in the judgment of the Commission or Administration, are necessary for the purposes of this subsection.

(c) The Administrator shall prepare and submit directly to the Congress and the President every year after the date of enactment of this Act a report which shall include—

(1) a review and analysis of the major actions taken by the Administrator;

(2) an analysis of the impact these actions have had on the Nation's civilian requirements for energy supplies for materials and commodities;

(3) a projection of the energy supply for the midterm and long term for each of the major types of fuel and the potential size and impact of any anticipated shortages, including recommendations for measures to—

(A) minimize deficiencies of energy supplies in relation to needs;

(B) maintain the health and safety of citizens;

(C) maintain production and employment at the highest feasible level;

(D) equitably share the burden of shortages among individuals and business firms; and

(E) minimize any distortion of voluntary choices of individuals and firms;

(4) a summary listing of all recipients of funds and the amount thereof within the preceding period; and

(5) a summary listing of information-gathering activities conducted under section 13 of this Act.

(d) Not later than thirty days after the effective date of this Act, the Administrator shall issue preliminary summer guidelines for citizen fuel use.

(e) The Administrator shall provide interim reports to the Congress from time to time and when requested by committees of Congress.

SEX DISCRIMINATION

SEC. 16. No individual shall on the grounds of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or remove any other legal remedies available to any individual alleging discrimination.

ADVISORY COMMITTEES

SEC. 17. (a) Whenever the Administrator shall establish or utilize any board, task force, commission, committee, or similar group, not composed entirely of full-time Government employees, to advise with respect to, or to formulate or carry out, any agreement or plan of action affecting any industry or segment thereof, the Administrator shall endeavor to insure that each such group is reasonably representative of the various points of view and functions of the industry and users affected, including those of residential, commercial, and industrial consumers, and shall include, where appropriate, representation from both State and local governments, and from representatives of State regulatory utility commissions, selected after consultation with the respective national associations.

(b) Each meeting of such board, task force, commission, committee, or similar group, shall be open to the public, and interested persons shall be permitted to attend, appear before, and file statements with, such group, except that the Administrator may determine that such meeting shall be closed in the interest of national security. Such determination shall be in writing, shall contain a detailed explanation of reasons in justification of the determination, and shall be made available to the public.

(c) All records, reports, transcripts, memoranda, and other documents, which were prepared for or by such group, shall be available for public inspection and copying at a single location in the offices of the Administration.

(d) Advisory committees established or utilized pursuant to this Act shall be governed in full by the provisions of the Federal Advisory Committee Act (Public Law 92-468, 86 Stat. 770), except as inconsistent with this section.

ECONOMIC ANALYSIS OF PROPOSED ACTIONS

SEC. 18. (a) In carrying out the provisions of this Act, the Administrator shall, to the greatest extent practicable, insure that the potential economic impacts of proposed regulatory and other actions are evaluated and considered, including but not limited to an analysis of the effect of such actions on—

(1) the fiscal integrity of State and local governments;

(2) vital industrial sectors of the economy;

(3) employment, by industrial and trade sectors, as well as on a national, regional, State, and local basis;

(4) the economic vitality of regional, State, and local areas;

(5) the availability and price of consumer goods and services;

(6) the gross national product;

(7) low and middle income families as defined by the Bureau of Labor Statistics;

(8) competition in all sectors of industry; and

(9) small business.

(b) The Administrator shall develop analyses of the economic impact of various conservation measures on States or significant sectors thereof, considering the impact on both energy for fuel and energy as feed stock for industry.

(c) Such analyses shall, wherever possible, be made explicit, and to the extent possible, other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analyses, and all Federal agencies are authorized and directed to cooperate with the Administrator in preparing such analyses: *Provided*, That the Administrator's actions pursuant to this section shall not create any right of review or cause of action except as would otherwise exist under other provisions of law.

(d) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any energy actions taken by the Administrator, and shall provide the Congress with a report every six months on the impact of the energy shortage and the Administrator's actions on employment and the economy. Such report shall contain recommendations as to whether additional Federal programs of employment and economic assistance should be put into effect to minimize the impact of the energy shortage and any actions taken.

(e) The Administrator shall formulate and implement regulatory and other actions in a manner (1) which does not unduly discriminate against any industry or any region of the United States; and (2) designed to insure that, to the greatest extent possible, the costs and burdens of meeting energy shortages shall be borne equally by every sector and segment of the country and of the economy.

MANAGEMENT OVERSIGHT REVIEW

SEC. 19. The Administrator may, for a period not to exceed thirty days in any one calendar year, provide for the exercise or performance of a management oversight review with respect to the conduct of any Federal or State (with consent of the Governor) energy program conducted pursuant to this Act. Such review may be conducted by contract or by any Federal department or agency. A written report shall be submitted to the Administrator concerning the findings of the review.

COORDINATION WITH, AND TECHNICAL ASSISTANCE TO, STATE GOVERNMENTS

SEC. 20. (a) The Administrator shall—

(1) coordinate Federal energy programs and policies with such programs and policies of State governments by providing—

(A) within sixty days of the effective date of this Act, the Congress and State governments with a report on the manner in which he has organized the Administration based upon the functions delegated by the President or assigned to the Administrator by this Act or under the authority of other Acts; and

(B) within one hundred and twenty days of the effective date of this Act, the public, State governments, and all Members of the Congress with a report in nontechnical language which—

(i) describes the functions performed by the Administration;

(ii) sets forth in detail the organization of the Administration, the location of its offices (including regional, State, and local offices), the names and phone numbers of Administration officials, and other appropriate information concerning the operation of the Administration;

(iii) delineates the role that State, and Federal governments will or may perform in achieving the purposes of this Act; and

(iv) provides the public with a clear understanding of their duties and obligations, rights, and responsibilities under any of the programs or functions of the Administration;

(2) before promulgating any rules, regulations, or policies, and before establishing any programs under the authority of this Act, provide, where practicable, a reasonable period in which State governments may provide written comments if such rules, regulations, policies, or programs substantially affect the authority or responsibility of such State governments;

(3) provide, in accordance with the provisions of this Act, upon request, to State governments all relevant information he possesses concerning the status and impact of

energy shortages, the extent and location of available supplies and shortages of crude oil, petroleum products, natural gas, and coal, within the distribution area serving that particular State government; and

(4) provide for a central clearinghouse for Federal agencies and State governments seeking energy information and assistance from the Federal Government.

(b) Pursuant to his responsibility under this section, the Administrator shall—

(1) provide technical assistance—including advice and consultation relating to State programs, and, where necessary, the use of task forces of public officials and private persons assigned to work with State governments—to assist State governments in dealing with energy problems and shortages and their impact and in the development of plans, programs, and policies to meet the problems and shortages so identified;

(2) convene conferences of State and Federal officials, and such other persons as the Administrator designates, to promote the purposes of this Act, and the Administrator is authorized to pay reasonable expenses incurred in the participation of individuals in such conferences;

(3) draft and make available to State governments model legislation with respect to State energy programs and policies; and

(4) promote the promulgation of uniform criteria, procedures, and forms for grant or contract applications for energy proposals submitted by State governments.

OFFICE OF PRIVATE GRIEVANCES AND REDRESS

SEC. 21. (a) The Administrator shall establish and maintain an Office of Private Grievances and Redress, headed by a director, to receive and evaluate petitions filed in accordance with subsection (b) of this section, and to make recommendations to the Administrator for appropriate action.

(b) Any person, adversely affected by any order, rule, or regulation issued by the Administrator in carrying out the functions assigned to him under this Act, may petition the Administrator for special redress, relief, or other extraordinary assistance, apart from, or in addition to, any right or privilege to seek redress of grievances provided in section 7.

(c) The Administrator shall report quarterly to the Congress on the nature and number of the grievances which have been filed, and the action taken and relief provided, pursuant to this section; and he shall make recommendations to the Congress from time to time concerning legislative or administrative actions which may be taken to better assist persons adversely affected by the energy shortages and to distribute more equitably the burdens resulting from any measures adopted, or actions taken, by him.

COMPREHENSIVE ENERGY PLAN

SEC. 22. (a) Pursuant and subject to the provisions and procedures set forth in this Act, the Administrator shall, within six months from the date of the enactment of this Act, develop and report to the Congress and the President a comprehensive plan designed to alleviate the energy shortage, for the time period covered by this Act. Such plan shall be accompanied by full analytical justification for the actions proposed therein. Such analysis shall include, but not be limited to—

(1) estimates of the energy savings of each action and of the program as a whole;

(2) estimates of any windfall losses and gains to be experienced by corporations, industries, and citizens grouped by socioeconomic class;

(3) estimates of the impact on supplies and consumption of energy forms consequent to such price changes as are or may be proposed; and

(4) a description of alternative actions which the Administrator has considered together with a rationale in explanation of the rejection of any such alternatives in preference to the measures actually proposed.

(b) The Administrator may, from time to time, modify or otherwise alter any such plan, except that, upon request of an appropriate committee of the Congress, the Administrator shall supply analytical justifications for any such alterations.

(c) The Administrator shall be responsible for monitoring any such plans as are implemented with respect to their effectiveness in achieving the anticipated benefits.

PETROCHEMICAL REPORT

SEC. 23. (a) Within ninety days after he has entered upon the office of Administrator or has been designated by the President to act in such office, the Administrator, or acting Administrator, as the case may be, with the assistance of the Department of Commerce, the Cost of Living Council, and the United States Tariff Commission shall, by written report, inform the Congress as to the—

(1) effect of current petrochemical prices upon the current level of petrochemical exports, and export levels expected for 1975;

(2) effect of current and expected 1975 petrochemical export levels upon domestic petrochemical raw materials and products available to petrochemical producers, converters, and fabricators currently and in 1975;

(3) current contribution of petrochemical imports to domestic supplies and the expected contribution in 1975;

(4) anticipated economic effects of current and expected 1975 levels of domestic supplies of petrochemicals upon domestic producers, converters, and fabricators of petrochemical raw materials and products; and

(5) exact nature, extent, and sources of data and other information available to the Federal Government regarding the matters set forth in paragraphs (1) through (4) of this subsection, including the exact nature, extent, and sources of such data and information utilized in connection with the report required by this subsection.

(b) As used in this section, the term "petrochemical" includes organic chemicals, cyclic intermediates, plastics and resins, synthetic fibers, elastomers, organic dyes, organic pigments, detergents, surface active agents, carbon black and ammonia.

HYDROELECTRIC GENERATING FACILITIES

SEC. 24. Within ninety days of the effective date of this Act, the Administrator of the Federal Energy Administration, in consultation with the Secretary of the Interior and the Secretary of the Army, shall—

(1) transmit to the Congress—

(A) a list of hydroelectric generating facilities and electric power transmission facilities which have been authorized for construction by the Congress and which are not yet completed, and

(B) a list of opportunities to increase the capacity of existing hydroelectric generating facilities; and

(2) provide, for each such facility which is listed—

(A) a construction schedule and cost estimates for an expedited construction program which would make the facility available for service at the earliest practicable date, and

(B) a statement of the accomplishments which could be provided by the expedited completion of each facility and a statement of any funds which have been appropriated but not yet obligated.

INFORMATION CONCERNING TRANSACTION, SALE, EXCHANGE OR SHIPMENT INVOLVING THE EXPORT FROM THE UNITED STATES TO A FOREIGN NATION OF COAL AND ANY REFINED PETROLEUM PRODUCT

SEC. 25. (a) The Administrator is authorized and directed to establish and maintain a file which shall contain information concerning every transaction, sale, exchange or shipment involving the export from the United States to a foreign nation of coal, crude oil, residual oil or any refined petroleum product. Information to be included in the file shall be current and shall include, but shall not be limited to, the name of the exporter (including the name or names of the holders of any beneficial interests), the volume and type of product involved in the export transaction, the manner of shipment and identification of the vessel or carrier, the destination, the name of the purchaser if a sale, exchange or other transaction is involved, and a statement of reasons justifying the export.

(b) Upon request of any committee of Congress or the head of any Federal agency, the Administrator shall promptly provide any information maintained in the file and a report thereon to such committee, or agency head, except where the President finds such disclosure to be detrimental to national security.

(c) Notwithstanding any other provision of law, any Federal agency which collects or has information relevant to the functions required by this section shall make such information available to the Administrator.

FOREIGN OWNERSHIP

SEC. 26. The Administrator shall conduct a comprehensive review of foreign ownership of, influence on, and control of domestic energy sources and supplies. Such review shall draw upon existing information, where available, and any independent investigation necessary by the Administration. The Administrator shall, on or before the expiration of the one hundred and eighty day period following the effective date of this Act, report to the Congress in sufficient detail so as to apprise the Congress as to the extent and forms of such foreign ownership of, influence on, and control of domestic energy sources and supplies, and shall thereafter continue to monitor such ownership, influence and control.

SEPARABILITY

SEC. 27. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

REVERSION

SEC. 28. Upon the termination of this Act, any functions or personnel transferred by this Act shall revert to the department, agency, or office from which they were transferred. An officer or employee of the Federal Government who is appointed, without break in service of one or more workdays, to any position for carrying out functions under this Act is entitled, upon separation from such position other than for cause, to reemployment in the position occupied at the time of appointment, or in a position of comparable grade and salary.

AUTHORIZATION OF APPROPRIATIONS

SEC. 29. There are hereby authorized to be appropriated to the Administrator, to remain available until expended, $75,000,000 for fiscal year 1974, and $200,000,000 annually for each of fiscal years 1975 and 1976 to carry out the purposes of this Act.

EFFECTIVE DATE; TERMINATION DATE

SEC. 30. This Act shall become effective sixty days after the date of enactment or sooner if the President publishes notice in the Federal Register. This Act shall terminate June 30, 1976.

And the Senate agree to the same.

CHET HOLIFIELD,
BENJAMIN S. ROSENTHAL,
FERNAND J. ST GERMAIN,
DON FUQUA,
FRANK HORTON,

JOHN N. ERLENBORN,
JOHN W. WYDLER,
Managers on the Part of the House.
ABRAHAM RIBICOFF,
SAM J. ERVIN, Jr.,
HENRY M. JACKSON,
EDMUND S. MUSKIE,
LEE METCALF,
CHARLES H. PERCY,
JACOB K. JAVITS,
EDWARD J. GURNEY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11793) to recognize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Except for certain clarifying, clerical, conforming and other technical changes, the changes made to deal with the differences between the House bill and the Senate amendment are noted below.

SECTIONS 1–3—TITLE AND DECLARATION

The conferees agreed not to carry "emergency" in the title of the act and the Administration and made conforming changes in the text. The conference substitute adopts the House bill's sections 1 through 3 with an amendment retaining the wording in Senate section 102(b) emphasizing that the sole purpose of the act is to reorganize certain governmental functions on an interim basis to deal with the Nation's energy shortages.

SECTIONS 4 AND 7(a)—OFFICERS AND EMPLOYEES

The House bill provided for two Deputy Administrators (section 4(c)). The Senate amendment provided for one Deputy Administrator (section 103(a)) and other personnel requirements, not contained in the House bill, as follows: (1) Officers in charge of five specific programs — allocation, rationing, pricing, State and local coordination, and economic impact analysis—were to be not lower than executive level V officers, appointed by the President with the advice and consent of the Senate (section 107(b), (c)); and (2) one hundred new GS-16, 17, and 18 positions were authorized, of which twenty-five were to be filled without regard to the laws governing appointments in the competitive civil service (section 106(a)(1)).

The conference substitute incorporates (1) the House provision for two Deputy Administrators (section 4(c)); (2) a modified Senate provision for Presidential appointment of officers principally in charge of four specified programs; allocation, rationing, pricing, and Federal and State coordination (section 4(f)(2)); and (3) a modified Senate provision for additional supergrades, reduced in number to ninety-one, with the total number of supergrades in the agency limited to one hundred and five (section 7(a)). Twenty-five of the ninety-one positions may be filled without regard to the laws governing appointment in the competitive civil service. This exemption applies to individual appointments, not to job classification and qualifications.

The conferees agreed that, in view of the extraordinary scope and complexity of the Administrator's responsibilities, two Deputy Administrators were justified. It is contemplated that one will be in charge of the Administration's program operations and the other will develop the Administration's policies and plans.

The conferees also agreed that the additional supergrades were warranted in view of the importance of the Administrator's responsibilities and need to pay salaries adequate to assure hiring the most qualified personnel possible. The Administrator would be expected to exercise judgment in filling these positions, so that they will be utilized only when necessary to administer the programs of the agency.

In concurring in the provision for Presidential appointment of executive level V officers with principal responsibility for specified programs, the conferees agreed that the four program areas of rationing, pricing, allocation, and Federal and State coordination were of such importance to the purposes of the act that they should be directed by officers subject to Senate confirmation. The conference substitute requires that officials having principal responsibility for these four programs be placed in positions not lower than executive level V. The Administrator is not precluded from distributing responsibility for these programs among the four officers in a manner which separates operations from planning. The provision applies to current and future pricing, allocation, and Federal-State coordination, but to rationing only if and when a Federal rationing program is actually implemented pursuant to authority granted under other legislation.

The provisions of the House bill governing the order in which other officers would serve in the absence of the Administrator (section 4(h)) mandated a more specific order of succession than the corresponding section of the Senate amendment (section 103(f)). The conferees adopted in subsection 4(h) the language of the Senate amendment.

SECTION 4(i)—CONFLICT OF INTEREST

Both the House bill and the Senate amendment contain similar provisions governing use of the waiver provisions under 18 U.S.C. 208. That law prohibits a Government officer or employee from acting in circumstances where he may have a conflict of interest unless he gets a waiver from his supervisor. The House bill (section 4(i)) provided that the Administrator alone could authorize such a waiver, and required 30 days' advance notice to Congress with a detailed description of the conflicting interest. The Senate amendment (section 106(b)) provided that a waiver must be personally authorized by the Administrator, Deputy Administrator, or General Counsel, and required public notice of each such waiver, along with a detailed statement justifying the waiver.

The conference substitute retains the wording in the House version with an amendment requiring only 10 days' advance notice to Congress and with a further amendment requiring that the report sent to Congress also be published in the Federal Register (section 4(i)). The conferees recognized that waivers may be justified in special cases, but the provision adopted reflects the view of the conferees that extreme caution should be taken in waiving the applicability of section 208; and that such waivers should be granted only when absolutely necessary to obtain the services of persons with special competence.

SECTION 4(j)—PROHIBITION AGAINST DUAL EMPLOYMENT

The conference substitute incorporates a provision, found in the House bill (section 8(e)) but not in the Senate amendment, prohibiting the Administrator, Deputy and Assistant Administrators, and General Counsel from holding other positions in the executive branch.

The conferees wish to make clear that this prohibition applies only to full-time positions and does not preclude additional service as part-time advisers or as part-time members of committees in the executive branch performing coordinating or consulting functions.

SECTION 5—FUNCTIONS AND PURPOSES

The House bill (section 5) enumerated 14 functions of the Administrator. The Senate amendment (sections 104 and 108(i)) included a general statement of his responsibilities. Both bills contained specific provisions to make it clear that the statements of responsibilities and functions did not grant new program authority to the Administrator.

The conference substitute is a composite of the House and Senate versions. The Administrator will have only the authorities specifically transferred or vested in him by the act, delegated to him by the President pursuant to specific authority of law, or otherwise specifically vested in the Administrator by Congress (section 5(a)). The conferees included in section 5(a) of the substitute the substance of both Senate section 104, describing the Administrator's authority, and section 108(i), which prohibits the Administrator from exercising any authority except that specifically conferred upon him.

The conference substitute is not intended to preclude the Administrator, as the head of a Federal agency, from acting under delegations based on statutory provisions which expressly enable one agency head to delegate certain authority to any other agency head. For example, the Administrator of General Services may make delegations of this type, to the extent authorized by law, with respect to such matters as automatic data processing, property disposal, and public buildings.

The conference substitute modifies slightly the list of functions in the House bill (section 5) which the Administrator may perform, to the extent authorized by other provisions of the act. One of the 14 listed functions, requiring the Administrator to expedite development of energy resources, was eliminated to emphasize that the Administrator's primary concern should be to alleviate immediate energy shortages and administer conservation measures rather than to engage in long-range research and development. The conferees did not intend, however, that FEA be precluded from undertaking efforts to promote the increased utilization of known energy resources through application of currently available technologies. Another function, relating to summer guidelines for citizen fuel use, was changed to a requirement for a report by the Administrator (section 15(d)).

SECTION 7(c)—COORDINATION WITH COST OF LIVING COUNCIL AND WITH ENVIRONMENTAL PROTECTION AGENCY

The Senate amendment, but not the House bill, contained provisions requiring the Administrator to submit proposed rules, regulations, or policies relating to energy pricing to the Cost of Living Council, and proposed energy regulations affecting the environment to the Environmental Protection Agency (section 106(a)(3)). As set forth in the Senate amendment both COLC and EPA are to receive notice at least 5 days in advance. The COLC may disapprove the proposed regulation within the period provided. The EPA may offer comments for the consideration of the Administrator, and these must be published along with the Administrator's proposed action. In an emergency these requirements may be suspended for 14 days.

The conference substitute incorporates the substance of the Senate provision with technical and clarifying amendments which make it clear that the Administrator must inform

EPA and COLC prior to providing the public with any notice that it is proposing to take certain actions. In the case of actions affecting the environment, EPA's comments must accompany the first public notice of the Administration's proposals.

SECTION 7(d)—VOLUNTARY AND UNCOMPENSATED SERVICES

The House bill included a provision allowing the Administrator to accept voluntary and uncompensated services (section 7(f)). Both the House bill and the Senate amendment permitted the Administrator to utilize the services of Federal and State agencies and instrumentalities with or without reimbursement, but the House version extended this provision to "private" agencies or instrumentalities (House bill, section 7(e); Senate amendment, section 106(a)(4)).

The conference substitute deletes the provision for acceptance of voluntary and uncompensated services and limits the provision for utilization of agency services, with or without reimbursement, to "public" agencies (section 7(d)). The conferees agreed that it is important to preclude any possibility or appearance that private interests exercise undue influence on the Administration by providing special uncompensated services.

SECTION 7(g)-(h)—ADMINISTRATIVE PROVISIONS

Both the House bill and Senate amendment authorized the Administrator to enter into contracts, leases and cooperative agreements, but the Senate amendment added "other transactions" (House bill, section 7(i); Senate amendment, section 106(a)(7)).

The conference substitute authorizes the Administrator to enter into contracts, leases, cooperative agreements and "similar" transactions. Though this language was adopted to give the Administrator needed flexibility, the conferees do not intend thereby to authorize the Administrator to make grants or grants-in-aid. The conferees deleted the requirement in the Senate provision that such transactions be entered into "subject to appropriation acts," since the Administrator, under other law, will be subject to this limitation in any event.

The conference substitute also incorporates an administrative provision found in the Senate amendment (section 106(a)(8)), but not in the House bill, authorizing the Administrator to perform such other activities as may be necessary for the fulfillment of his administrative duties and functions. The intent is to give him incidental powers of an administrative nature necessary for the efficient running of the Administration, and not to expand in any way his substantive authority beyond the limitations of section 5(a) of the conference substitute.

SECTION 7(i)—ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Both the House bill and the Senate amendment include similar provisions establishing administrative and judicial review procedures for the Administration (House bill, section 7(j); Senate amendment, sections 121 and 122). However, the House bill and Senate amendment differed in such matters as the application of the procedures to State and local government actions, the functions covered, the number of provisions of the Administrative Procedure Act applicable, and the time allowed for public comment and hearing.

The conference substitute in section 7(i)(1) and (3) adopts substantially the House provisions as being somewhat more detailed and complete. The subsection applies with modifications, Administrative Procedure Act provisions not only to rules and regulations, but also to orders similar to a rule or regulation. This reflects the conferees' intent that the Administrator should provide notice and opportunity for comment whenever his proposed action could have an impact on more than the few persons who, in the absence of such public notice, would be likely anyway to receive personal notice of the proposed action. It is expected that the exception to the notice of the proposed provision in paragraph (B) of section 7(i) of the conference substitute will be used very sparingly.

Paragraph (C) requires that opportunity for oral comments be provided if the rule, regulation, or order is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. The number of individuals or businesses need not necessarily be large relative to the entire population, but should be substantial in a given sector of the country or the economy. The conferees intend that if the Administrator is in doubt about the applicability of any of the standards provided in this section, he will resolve the doubt in favor of the fullest application of procedural safeguards.

The House bill and the Senate amendment differed with respect to appeals from general administrative rulemaking. The conference substitute, in section 7(i)(2), adopts the House language with technical amendments to make clear that with respect to judicial review of general rulemaking under the act, actions taken pursuant to the Emergency Petroleum Allocation Act of 1973 will continue to follow the special procedures provided in the Allocation Act for facilitating appeals through the use of the Temporary Emergency Court of Appeals. This clarification comports with the provisions in section 7(i)(2)(B), adopting language in both the House bill and the Senate amendment, which provides that the U.S. district courts shall have jurisdiction over all other cases or controversies arising under the Federal Energy Administration Act. Appeals from the district courts in cases involving Allocation Act matters presently go to the Temporary Emergency Court of Appeals, and nothing in either the House bill, Senate amendment, or conference substitute alters this procedure.

The conference substitute in section 8(b) and (f) makes it clear that in the event of any inconsistency between the administrative and judicial review procedures presently applicable to functions transferred by the act, and the procedures specifically established by section 7, the provisions in section 7 shall govern.

SECTION 12—ACCESS TO INFORMATION BY COMPTROLLER GENERAL

Both the House bill and the Senate amendment authorized the Comptroller General to monitor Administration operations, to make his reports available to the public, and to gain access to certain Administration and private records. The House bill limited such access to information in the possession of the Administration and to certain records of Government contractors and recipients of Federal funds (section 14(a)). The Senate amendment was considerably broader. It granted the Comptroller General the right of access to data from any public or private source or organization relating to the management and conservation of energy, permitted him to obtain information from persons under oath, and authorized the issuance of subpenas for the production of records (section 119 (a)-(c)).

The conference substitute follows the Senate version but with signficant limitations and controls. It authorizes the Comptroller General to request information or records only from owners or operators of business premises engaged in any phase of energy supply or major consumption of energy, and it authorizes the Comptroller General to issue subpenas for the production of such business records, provided he first obtains the concurrence by resolution of a duly established committee of the Congress having legislative or investigative jurisdiction over the subject matter. The resolution must set forth the necessity and scope of the subpenas and the identity of the persons to be served.

The conference substitute also incorporates a provision in the House bill (section 14(b)) reiterating the prohibition in 18 U.S.C. 1905 against disclosure to the public of trade secrets and other confidential data but making such information available by the Comptroller General or the Administrator to Congress, courts and Federal agencies for official use. The Senate amendment (section 119(e)) contained a comparable provision, but it did not specifically provide that confidential information could be disclosed to Congress, courts, or agencies.

The provisions for disclosure by the Administrator contained in section 12(f) refer only to information received from the Comptroller General under section 12. Disclosure of information obtained by the Administrator from other sources is subject to section 14 of the conference substitute.

SECTION 13—INFORMATION GATHERING BY THE ADMINISTRATOR

Both the House bill and the Senate amendment contained comparable provisions giving the Administrator extensive information-gathering powers, including the right to conduct investigations; to require that persons provide information, reports, or responses to specific questions or to general surveys or questionnaires; to make on-site investigations, including the examination of records; to subpena witnesses and documentary material; to administer oaths; and to seek the aid of a Federal court in the enforcement of subpena rights (House bill, section 15(a)-(c); Senate amendment, section 116(a)-(d)). The House bill differed primarily in requiring categorical groupings of information; in limiting the persons subject to the Administrator's information-gathering powers to owners or operators of business premises engaged in energy supply or major energy consumption rather than to persons subject to any rule, regulation or order of the Administrator; and in providing for an administrative warrant before inspecting premises. The warrant provision was drawn from the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 880).

The conference substitute is a composite of the House and Senate versions. It incorporates the House provisions prescribing categorical groupings and limits the Administrator's information-gathering powers to owners or operators of business premises engaged in energy supply or major energy consumption. However, it omits the wording with regard to use of administrative warrants for inspection of premises so as to eliminate any possibility that the provision would be interpreted as permitting unjustified invasions of a person's rights of privacy. If the Administrator encounters any difficulty in obtaining access to premises to conduct inspections, he will be able to seek the aid of a court for appropriate enforcement of his right of inspection through judicial warrant or other legal process.

The conference substitute (section 13(f)) retains a provision found in the House bill (section 15(d)) giving the Administrator access to data in other agencies concerning energy resources on Government-owned lands.

SECTION 14(a)-(b)—PUBLIC DISCLOSURE OF INFORMATION

The conference substitute incorporates a provision of the Senate amendment (section 117(a)) imposing upon the Administrator an affirmative duty to keep the public fully informed by publicizing information concerning energy shortages and supplies, the impact of shortages on the economy, and steps being taken to minimize such impact (section 14(a)).

Both bills contained provisions relating to public access to information. The House bill reiterated the protection given trade secrets

and other confidential information under 18 U.S.C. 1905 (section 16(a)). The Senate amendment directed the withholding of information protected from disclosure by the Freedom of Information Act (5 U.S.C. 552), but specifically required disclosure of certain corporate financial data.

The conference substitute incorporates a provision authorizing disclosure of confidential information under 18 U.S.C. 1905 to persons performing functions under this act, or in court proceedings. It also requires public disclosure, upon request, of information of the type which could not be excluded from public annual reports to the Securities and Exchange Commission.

In other respects, the Freedom of Information Act will govern. The Administrator may withhold matters within the exemptions provided by that act, but there is nothing in the conference substitute requiring him to do so. In determining whether to disclose information under the Freedom of Information Act, the conferees expect that the Administrator will give consideration, among other things, to his affirmative duty imposed by section 14(a) to keep the public informed.

SECTION 14(3)—HANDLING PERSONAL DATA

The House bill contained a provision directing the Administrator to establish guidelines for handling data pertaining to individuals, giving them notice, access, and opportunity to contest the accuracy, pertinency, and inclusion of such data. The Administrator also was directed to protect such data against "indiscriminate" transfers to other persons, organizations, or agencies (section 16(b)).

The Senate amendment contained no comparable provision.

The conference substitute incorporates the House provision, but modifies it to require the Administrator to provide guidelines for the handling of information pertaining to individuals which shall, to the extent practicable, afford each affected individual access to information pertaining to himself. It was the intent of the conferees that this provision apply only to information concerning individuals in their strictly personal capacity, and not to information which relates in any way to an individual's business activities covered by this act.

SECTION 16—SEX DISCRIMINATION

The conference substitute incorporates a provision against sex discrimination. The House bill (section 21), but not the Senate amendment, included such a provision.

SECTION 17(a)—ADVISORY COMMITTEES

The House bill authorized the Administrator to appoint advisory boards in accordance with the provisions of the Federal Advisory Committee Act (U.S.C. App. I (1972 Supp.)) and directed him to establish a separate advisory board of State public utility commissioners (section 7(c)).

The Senate amendment (section 118) directed the Administrator to assure that each advisory group was reasonably representative of the different interests affected, including State and local governments and public utility commissions. It also required each meeting of an advisory group to be open to the public unless closed for national security reasons, and gave the public ready access to all records, reports, and transcripts of group meetings. In other respects it made the Federal Advisory Committee Act controlling.

The conference substitute incorporates, with minor amendments, the provisions in the Senate amendment.

SECTION 21—OFFICE OF PRIVATE GRIEVANCES AND REDRESS

The Senate amendment (section 124) had a provision not in the House bill creating an Office of Private Grievances and Redress. The conference substitute adopts the Senate provision with technical amendments to make it clear that the Director of the Office of Private Grievances and Redress will have no independent statutory authority, apart from the Administrator, to grant relief to petitioners, and that the procedures established by this section are in addition to those provided under section 7. The reporting requirements also were amended to make them the formal responsibility of the Administrator rather than the Director.

SECTION 29—AUTHORIZATIONS

In place of the House provision authorizing appropriations as necessary (section 13), the conference substitute incorporates the Senate provision (section 132(a)) authorizing appropriations of $75 million for fiscal year 1974, and $200 million each for fiscal years 1975 and 1976. The conference substitute omits provisions in the Senate amendment for additional appropriations if a rationing program is adopted, and for mandatory apportionment of appropriations during the fiscal year for which such sums were appropriated (section 132 (b)–(c)).

SECTION 30—TERMINATION DATE

In place of the House provision for termination of the act in two years (section 19), and the Senate provision for termination on June 30, 1975 (section 131), the conference substitute provides for termination of the act on June 30, 1976.

REPORTS, ANALYSES, AND REVIEWS

The conference substitute includes provisions for the following:

Section 15(a)—A report by the President six months before expiration of the act, with recommendations concerning (1) the disposition or possible continuance of the Administration's functions, and (2) a Federal organization for energy and natural resources. This was a consolidation of language in the House bill (section 17(a)) and the Senate amendment (section 126).

Section 15(b)—A report within a year on oil and gas reserves. The conference substitute adopts with amendments the House provision (section 17(b)) in lieu of the Senate provision (section 127(a)(5)). The House provision requires that the data collection and analysis portion of the report be prepared by the Federal Trade Commission for the Administration.

Section 15(c)—A yearly report describing the Administration's actions and predicting the Nation's future energy supply. The conference substitute was adapted from the Senate amendment (section 127(a)(1)–(4), (b)).

Section 18—Analysis of the impact of proposed actions by the Administrator, including a requirement for a single report every six months prepared by the Administrator and the Secretaries of Labor and Commerce, and a requirement for nondiscriminatory and equal apportionment of the burdens of energy shortages among all sectors of the country and the economy. This was adapted from the Senate amendment (section 113). The Administrator's actions under this section do not create any new right of review or cause of action.

Section 19—Management oversight reviews by the Administrator of Federal and State energy programs conducted under this act. This was adapted from a Senate provision (section 114).

Section 20—Coordination with, and technical assistance to, State governments. The conference substitute is identical to section 115 of the Senate amendment, except that the Administrator's responsibility for providing coordination and technical assistance need not go beyond State governments. Coordination and assistance to local governments was considered important by the conferees, but as a practical matter it was agreed that in most cases such coordination and assistance would be obtained more expeditiously if provided through State governments.

Section 22—A comprehensive plan for alleviating energy shortages during the period covered by the act, to be developed by the Administrator and submitted to Congress and the President. This was adapted from a Senate provision (section 125).

Section 23—A report on the effect of energy shortages and current prices on the petrochemical industry. This was adapted from a Senate provision (section 128).

Section 24—A report on opportunities for expediting the construction or enlargement of hydroelectric generating facilities, to be prepared by the Administrator in conjunction with the Secretaries of the Interior and Army. This was adapted from a Senate provision (section 129).

Section 25—Compilation and report of information on coal and petroleum product exports. This was adapted from a Senate provision (section 130), with an amendment giving primary responsibility for obtaining the information to the Administrator rather than the Department of Commerce. It is expected that the Department and other Federal agencies will cooperate fully with the Administrator and provide the assistance he needs in compiling data and reporting on coal and petroleum product exports. To enable other agencies to cooperate with the Administrator, subsection (c) exempts them from laws limiting the transfer of information to other agencies. To qualify under this exemption, however, the information must be directly relevant to the purposes of this section.

Section 26—A report on the extent of foreign ownership or control of domestic energy sources and supplies. The Administrator is further charged with continuing responsibility for monitoring such foreign ownership. This was adapted from a Senate provision (section 116(e)).

Changes were made in connection with a number of the above items to allow more time for preparing the reports and to reduce their frequency.

The other reporting requirements contained in the Senate amendment were deleted by the conferees.

MISCELLANEOUS

Other miscellaneous differences between the House bill and the Senate amendment were reconciled as follows:

The Senate amendment, but not the House bill, permitted the President to transfer additional agency functions to the Administrator if Congress specifically approved the transfer after considering it on an expedited basis (section 105(c)). The conference substitute omits the Senate provision.

The conference substitute omits, as unnecessary, a House bill provision (section 9(a)) stating that offices in the Department of the Interior and the Cost of Living Council shall lapse when all their functions are transferred to the Administration.

Section 9—The conference substitute follows the Senate language (section 109) governing incidental transfers by the Director of the Office of Management and Budget. The effect is to direct, as well as authorize, the Director of OMB to make such incidental transfers of personnel, property and funds, etc., as are necessary. The wording in section 10 of the House bill applying this section to the reversion of functions upon the expiration of the act was retained.

Section 11(a)–(b)—The conference substitute adopts with minor changes the Senate version governing interim appointments. As a result, the Administrator's use of funds of other agencies to pay agency officials is limited to those funds applicable to functions transferred to the Administration (Senate amendment, section 111(a); House bill, section 12(a)). Section 11(b) of the conference substitute also incorporates a provision in the Senate amendment (section 111(b)) that temporary transitional appointments by the President of officers requiring Senate con-

firmation be effective for only 30 days, unless during that time the names of such officers are submitted to the Senate for confirmation. The 30-day limitation was changed from the 60 days originally provided in the Senate amendment to accord with existing law governing Presidential appointments.

Section 11(c)–(d)—The conference substitute incorporates Senate language (section 111(c)–(d)) protecting the employment rights of employees upon transfer to the Administration.

Section 28—The conference substitute governing the reversion of functions for personnel upon the termination of the act makes clear that the section applies to functions for personnel transferred from any executive department, agency, or office. It retains the House provision (section 20) protecting an employee's rights on reversion of functions to other parts of the executive branch. In addition to being assured a job of comparable grade and salary, the employee also will be given credit, upon transfer back to his former agency, of any seniority rights accumulated while working for the Administration. The employee protection rights provided by sections 11 and 28 do not apply to persons who are separated or reduced in grade for cause.

ELIMINATION OF TITLE II OF SENATE AMENDMENT

The Senate amendment (title II) created a three-member Council on Energy Policy to advise the President and Congress, coordinate Federal Govrenment energy activities, collect and analyze energy data, prepare a comprehensive energy plan, and perform other functions.

The House bill had no provisions for a council.

The conference substitute includes no provision for a council. The conferees agreed that establishment of the Council on Energy Policy as a permanent agency would be more appropriate for consideration in connection with permanent legislation than legislation establishing a temporary agency to deal with the current energy shortages.

The elimination of title II does not preclude the establishment by the President, within existing authority, of any council or other organization to coordinate Federal energy policies.

ABRAHAM RIBICOFF,
SAM J. ERVIN, Jr.,
HENRY M. JACKSON,
EDMUND S. MUSKIE,
LEE METCALF,
CHARLES H. PERCY,
JACOB K. JAVITS,
EDWARD J. GURNEY,
Managers on the Part of the Senate.

CHET HOLIFIELD,
BENJAMIN S. ROSENTHAL,
FERNAND J. ST GERMAIN,
DON FUQUA,
FRANK HORTON,
JOHN N. ERLENBORN,
JOHN W. WYDLER,
Managers on the Part of the House.

Mr. RIBICOFF. Mr. President, I further ask unanimous consent that the conference report, together with the statement of managers, be printed as a Senate report.

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, with an amendment:

H.R. 8217. A bill to exempt from duty certain equipment and repairs for vessels operated by or for any agency of the United States where the entries were made in connection with vessels arriving before January 5, 1971. (Rept. No. 93–786).

By Mr. TUNNEY, from the Committee on Commerce, with amendments:

S. 1018. A bill to create a National Commission on the Olympic Games to review the question of U.S. participation in the Olympic games and to evaluate and formulate recommendations concerning such participation (Rept. No. 93–787). Referred to the Committee on Foreign Relations.

Mr. TUNNEY. Mr. President, I am reporting herewith a copy of the Commerce Committee report on S. 1018 the National Olympic Commission Act of 1974.

Mr. President, I am asking that this legislation be referred to the Senate Foreign Relations Committee.

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

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. CURTIS:

S. 3364. A bill relating to acquiring of certain narcotics by force, violence, or intimidation. Referred to the Committee on the Judiciary.

By Mr. STEVENS:

S. 3365. A bill to amend section 6161(b) of the Internal Revenue Code of 1954 (relating to extension of time for paying tax) to require repayment of deficiencies by installments in cases of undue hardship. Referred to the Committee on Finance.

By Mr. BELLMON:

S. 3366. A bill to amend title 38 of the United States Code to provide for cost-of-living increases in compensation, dependency, and indemnity compensation, and pension payments. Referred to the Committee on Veterans' Affairs.

S. 3367. A bill to revise the period used for determining changes in the index of prices paid by farmers and in the national average yield per acre for the purpose of making adjustments in the target price of the 1976 crops of wheat, feed grains, and cotton. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS:

S. 3365. A bill to amend section 6161 (b) of the Internal Revenue Code of 1954 (relating to extension of time for paying tax) to require repayment of deficiencies by installments in cases of undue hardship. Referred to the Committee on Finance.

Mr. STEVENS. Mr. President, the bill I am introducing today would allow individual citizens to pay tax deficiencies to the Internal Revenue Service by installment payments in cases in which the immediate payment of such deficiencies would pose an undue hardship to them. I believe that such an amendment to the Internal Revenue Code would alleviate much of the difficulties which presently face medium- and lower-income Americans who, whether through oversight or inadvertence, are determined to owe sums to the Service.

Through the nearly 6 years in which I have been a Member of the Senate, my office has received numerous complaints from American taxpayers regarding the treatment which they have received from the Internal Revenue Service and its employees. Many of my colleagues must have received similar reports from their constituents. Although I know that the majority of the employees working for the Service are well-meaning public servants, too often the American taxpayer comes away from his encounters with the Service with complaints of discourteous treatment and inflexible attitudes on the part of Service employees. Although the Federal Government requires that a diligent effort be maintained to insure the prompt payment of tax obligations by citizens, I believe that this effort can be conducted in an open, courteous, and fair manner by our public employees. For these reasons, I have supported various legislative proposals to help establish certain safeguards to protect the rights of taxpaying Americans. The legislation I am sponsoring today would constitute one additional step toward achieving this goal.

One of the most disturbing problems which has been brought to my recent attention concerns the very real hardships which are posed to many medium- and lower-income taxpayers by being forced to pay immediately tax deficiencies which they are held to owe to the Service. I have been informed that the Internal Revenue Service today, even though it has no statutory authority to do so, will make installment payment arrangements with taxpayers for the liquidation of their tax deficiencies. I am also advised, however, such arrangements are made only when the respective district director of the Service determines that immediate payment of the delinquency would pose an undue hardship to the respective taxpayer. In short, it is entirely up to the discretion of the various district directors as to whether or not to arrange for such a plan. As a result, the standards and criteria which are observed are not uniform on a national basis, but in large part are personal to the Director involved.

Mr. President, I believe that this gap in the Internal Revenue Code's statutory authority should no longer remain unfilled. The American economy today operates on and indeed requires the extension of credit and the free transfer of debt obligations. Americans today purchase all kinds of retail consumer goods, automobiles, and homes through installment payments. Likewise, American industry and business finances many of its investments and purchases of equipment, raw materials, and services through installment payments. Indeed, chapter XIII of the Federal Bankruptcy Act allows debtors to arrange court-approved extension plans to liquidate their obligations over time. When, then, should the middle- or lower-income American taxpayer who through a mistake or inadvertence incurs a Federal income tax deficiency be forced to make immediate and total payment of such an obligation—regardless of the particular hardships and adverse consequences

which may be forced upon him or his family? I am well aware that the smooth functioning of our Federal Government requires that citizens pay their tax obligations on time, but there should be provisions for flexibility in cases of undue hardship.

The legislation I am proposing would provide for installment payment plans only for individual taxpayers and not for corporations or other legal entities. Moreover, to insure that such a plan would not be abused, I have included a provision declaring that such installment payments may not be employed in cases in which an individual taxpayer is determined to have deficient tax obligations due to gross negligence, intentional disregard of the rules and regulations of the Internal Revenue Code, or fraud with intent to evade his lawful tax. I believe that these provisions will confine the operation of installment payment plans to taxpayers who have incurred deficiencies through bona fide mistakes.

Finally, in order for a deficient taxpayer to qualify for the operation of such a plan, I have included a provision that requires the taxpayer to show to the satisfaction of officials of the Internal Revenue Service that, first, he does not have sufficient assets in excess of the amount of assets he requires to subsist and conduct his business, if any, which he can convert into a sum sufficient to pay the entire amount of the deficiency; second, he cannot borrow at a reasonable rate of interest a sum sufficient to pay the entire amount of the deficiency; and third, he provides IRS officials with a complete statement of his financial worth on appropriate forms.

These provisions will insure that a taxpayer with modest income will not be forced to sell his business, borrow money at unreasonable or usurious rates, or have his standard of living fall below a subsistence level in order to liquidate a tax deficiency. Moreover, if an installment plan is arranged, I have included a section limiting the amount that can be required to be paid in any one installment period. For this purpose, I have adopted the wording of section 303 of the Consumer Credit Protection Act of 1968 (Public Law 90–321, 15 U.S.C.A. 1613) which restricts the amount of an individual's weekly disposable earnings that is subject to garnishment. Thus, a taxpayer who has arranged such an installment plan with the IRS and who is paid on a weekly basis will not be required to pay more than 25 percent of his weekly disposable earnings for that week or more than the amount by which his weekly disposable earnings exceed thirty—30—times the Federal hourly minimum wage, whichever is less. For taxpayers who are paid on other than a weekly basis, the same limitations would exist, but multiplied to correspond with the length of their respective payment interval.

Mr. President, I am sponsoring this legislation to add a limited degree of flexibility to the operation of the Federal income tax laws, so that middle- and lower-income taxpayers can better meet their lawful tax obligations without undue hardship to themselves or their families. In light of the great current interest which is being manifested regarding proposals for tax reform, it is my earnest hope that my colleagues will favorably examine this proposal, so that the days ahead will see positive action for its implementation.

I ask unanimous consent that the text of my bill be included at this point in the RECORD.

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

S. 3365

A bill to amend section 6161(b) of the Internal Revenue Code of 1954 (relating to extension of time for paying tax) to require repayment of deficiencies by installments in cases of undue hardship

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6161(b) of the Internal Revenue Code of 1954 (relating to extension of time for paying tax) is amended to read as follows:

"(b) Amount Determined as Deficiency.—

"(1) Conditions for periodic payments.—In the case of a tax imposed by chapter 1, 12, or 42 the Secretary or his delegate shall extend, in the manner provided in paragraph (2), the time for payment of the amount determined as a deficiency if—

"(A) it is shown to the satisfaction of the Secretary or his delegate that—

"(i) the taxpayer does not have sufficient assets in excess of the amount of assets he requires to subsist and to conduct his business, if any, which he can convert into an amount of money sufficient to pay the entire amount of the deficiency; and

"(ii) the taxpayer cannot borrow at a reasonable rate of interest an amount of money sufficient to pay the entire amount of the deficiency; and

"(B) the taxpayer provides the Secretary or his delegate with a complete statement of his financial worth in the form prescribed by the Secretary or his delegate.

"(2) Manner of payment.—

"(A) If an extension of time for payment is required under paragraph (1), the Secretary or his delegate shall require the taxpayer to pay the amount of the deficiency in periodic payments at such equal intervals of time as the Secretary or his delegate determines are reasonable under the circumstances.

"(B) In the case of a taxpayer whose periodic payment interval is one week, no payment may exceed the lesser of—

"(i) 25 per cent of the taxpayer's disposable earnings for that week, or

"(ii) the amount by which the taxpayer's disposable earnings during that week exceeds 30 times the hourly minimum wage prescribed under section 6 of the Fair Labor Standards Act of 1938.

In the case of any other taxpayer, the Secretary or his delegate shall prescribe a multiple of the hourly minimum wage equivalent in effect to that set forth in clause (ii).

"(C) For purposes of subparagraph (b), the term 'disposable earnings' means that part of the compensation paid or accrued for personal services (whether denominated wages, salary, commission, bonus, or otherwise including periodic payments pursuant to a pension or other retirement program) to any taxpayer minus any amounts required by law to be withheld.

"(3) Denial of extension.—No extension of time for payment shall be granted if the deficiency is due to gross negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.".

SEC. 2. Effective date.—The amendment made by this Act applies to dificiencies for taxable years beginning after December 31, 1974.

By MR. BELLMON:

S. 3366. A bill to amend title 38 of the United States Code to provide for cost-of-living increases in compensation, dependency, and indemnity compensation, and pension payments. Referred to the Committee on Veterans' Affairs.

Mr. BELLMON. Mr. President, today I introduce legislation providing for systematic cost-of-living increases in veterans' benefits.

Mr. President, the need for this legislation is well documented by the present status of our economy. During the past few years, the citizens of this country, especially those on fixed incomes, have suffered from unprecedented inflation. Increases in the cost of living have become a normal expectation. The Government should act effectively to stabilize the cost of living. If this is done, the provisions of this bill will not apply. However, if the cost of living does continue to rise, this bill will provide a means of protection to veterans, the one group which most needs and merits such attention.

In the past 5 years, the cost of living has increased nearly 30 percent. This is the fastest rate of increase in a quarter of a century. The average family in America has seen the price of food go up 22 percent in the last year. In 1973 alone, consumer prices jumped 8.8 percent, and prices in the first months of 1974 continue to rise. Through various means, Congress and the executive branch have attempted to neutralize the effect of rapidly rising prices, yet Americans continue to see their dollar buy less and less.

Every American has felt the squeeze of higher prices. However, the veterans and those dependent on veterans' benefits for economic survival have been especially hard hit. Many veterans and their families rely heavily on these benefits as their major source of income. However, because of the fixed income nature of these benefits, as prices rise their dollar is worth less, and hence the veterans' "benefit" is swallowed by inflation.

Mr. President, Congress has already recognized a proposal analogous to the one I present here today. I refer to the automatic cost-of-living increase which was written into the social security law last year, providing much needed relief for millions of fixed income Americans. Although this legislation was vital to the economic needs of many, certain inequities have resulted which have adversely affected the veteran. In attaching a cost-of-living escalator clause to social security benefits, Congress intended to offset the dollar lost in purchasing power resulting from inflation. However, the subsequent loss in veterans' benefits inadvertently neutralized the intended objective. Figures from the Congressional Research Service indicate that 1.2 million pensioners have had their veterans' benefits reduced as a result of social security increases. Approximately 20,000 pensioners have been dropped from the rolls because of social security increases, and 15,000 have experienced income losses ranging from $38 to $168 annually, with the average loss around $108 annually. Certainly Congress did not intend an overall reduction of veterans benefits, but in many cases this is exactly

what happened. In effect, Congress failed to protect the purchasing power of the veterans' dollar and those reliant on veterans' benefits, while at the same time granting nonveterans the full measure of cost-of-living increases. What we have given with one hand we have taken away with the other. This is simply not fair. Corrective action by Congress is badly needed.

Mr. President, this Government is committed toward the goal of insuring the veteran certain benefits for service to our country. This commitment is irreversible. Hence, Mr. President, if we are to keep our promise to the veteran, let us remove the present inequities that have resulted from our own inability to stabilize our unpredictable economy and give the veterans a fair chance to fight the rising cost of living.

Mr. President, the bill I propose today is a workable approach aimed at protecting the purchasing power of the veterans' dollars. I propose a cost-of-living escalator be attached to veterans' benefits to included cases of compensation to veterans for wartime and peacetime service connected disabilities, wartime and peacetime service connected death compensation, dependency compensation, and indemnity compensation paid to surviving spouses, children, and dependent parents, pensions paid for nonservice connected disabilities, and service in specific wars and pensions of widows of wartime veterans. At the beginning of each calendar quarter, the Veterans' Administration would automatically increase veterans' benefits if the consumer price index during the preceding quarter has increased by three-fourths of 1 percent—3 percent annually. Payments would be increased by a percentage equal to the rise in the consumer price index figured to the nearest 0.1 percent. Thus, as the cost of living is pushed up by inflation, benefits provided by the Federal Government will more fully and fairly compensate the veterans for the years of sacrifice and service they have given to our country.

Mr. President, this country owes a great debt of gratitude to its veterans. This legislation is vital to the lasting economic well being of America's veterans. It is my hope that the Senate will act promptly in consideration of this matter.

Mr. President, I ask unanimous consent that the full text of my bill be printed in the CONGRESSIONAL RECORD at this point.

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

S. 3366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 1 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 113. Cost-of-living increases in benefits

"(a) As soon as possible after the beginning of each calendar quarter, the Administrator shall determine the extent by which the price index in the preceding calendar quarter was higher than the price index in the applicable base period (as those terms are defined in subsection (e)). If he determines that the price index had risen by a percentage (of its level in the base period) equal to 3 per centum or more, the amount of each benefit otherwise payable under this title or the first sentence of section 9(b) of the Veterans' Pension Act of 1959 shall be increased by the same percentage (adjusted to the nearest one-tenth of 1 per centum), effective with respect to benefits for months after the quarter in which the determination is made.

"(b) In the case of any individual who first becomes entitled to a benefit in or after the month in which an increase becomes effective under subsection (a), the amount of the benefit payable to or with respect to him on the basis of such entitlement shall be determined by applying such increase (or, if more than one increase has become effective under subsection (a), by applying all such increases successively) to the amount of the benefit which would be payable under the provisions of this title or the first sentence of section 9(b) of the Veterans' Pension Act of 1959 without regard to this section.

"(c) Any increase under subsection (a) shall apply with respect to all benefits payable under this title or the first sentence of section 9(b) of the Veterans' Pension Act of 1959 during the period in which such increase is effective regardless of the provisions under which such benefits are payable or the manner in which the amounts payable are determined, but shall be applied with respect to the benefit payable to or with respect to any particular individual only after all of the other provisions of this title or the first sentence of section 9(b) of the Veterans' Pension Act of 1959 which relate to eligibility for the amount of such benefit, and all prior increases made in such benefit under this section, have been applied.

"(d) If the amount of the increase in any benefit under subsection (a) is not a multiple of $0.10 it shall be raised to the next higher multiple of $0.10 in the case of a multiple of $0.05 or adjusted to the nearest multiple of $0.10 in any other case.

"(e) For purposes of this section—

"(1) the term 'price index' means the Consumer Price Index (all items, United States city average) published monthly by the Bureau of Labor Statistics; and the average level of the price index for the three months in any calendar quarter shall be deemed to be the level of the price index in such quarter; and

"(2) the term 'base period' means—

"(A) the calendar quarter commencing January 1, 1974, with respect to the first increase under subsection (a), and

"(B) the calendar quarter immediately preceding the quarter in which the determination constituting the basis of the most recent increase under subsection (a) was made, with respect to any increase under subsection (a) after the first such increase.

"(3) the term 'benefit' means compensation, dependency and indemnity compensation, or pension payable under chapter 11, 13, or 15 of this title or pension payable under the first sentence of section 9(b) of the Veterans' Pension Act of 1959."

(b) The table of sections at the beginning of chapter 1 of title 38, United States Code, is amended by adding at the end thereof the following:

"113. Cost-of-living increases in benefits."

SEC. 2. The amendments made by the first section of this Act shall apply only with respect to increases in benefits under title 38, United States Code, or the first sentence of section 9(b) of the Veterans' Pension Act of 1959 for months in and after the second calendar quarter beginning after the date of the enactment of this Act on the basis of determinations made (under section 113 of such title, as added by the first section of this Act) in and after the first calendar quarter beginning after the date of the enactment of this Act.

By Mr. BELLMON:

S. 3367. A bill to revise the period used for determining changes in the index of prices paid by farmers and in the national average yield per acre for the purpose of making adjustments in the target price of the 1976 crops of wheat, feed grains and cotton. Referred to the Committee on Agriculture and Forestry.

Mr. BELLMON. Mr. President, I am introducing today legislation to amend the Agriculture and Consumer Protection Act of 1973.

During the Senate-House conference on that legislation there was considerable give and take between the conferees in an effort to arrive at provisions which we felt would be agreeable to all parties concerned, including the President.

One of the compromises was to restrict the cost of production adjustment formula with regard to the target prices to the final 2 years of the program—1976 and 1977. However, it has come to my attention that in the bill finally adopted, the change in the target prices in 1976 will be determined only on the change in the cost of production index in 1975.

In the 7 months since adoption of the Agriculture and Consumer Protection Act, the cost of production index has increased 46 points. There have been very dramatic increases in most farm production inputs. For example, the price of fertilizer has tripled and even quadrupled in some areas, fuel costs have doubled and tripled, and the price of farm machinery and other production items have greatly increased. Under present law these cost of production increases would not be taken into account in determining the 1976 and 1977 target prices.

Mr. President, this Government has asked American farmers to produce at maximum capacity to meet the food and fiber needs of a growing world population. At the same time Government policies have contributed in part to the shortages of fertilizer and other products which has resulted in production cost increases.

The bill I introduce today would amend current law to provide that any changes in the cost of production between the date of enactment of the act August 10, 1973, through calendar year 1975 shall be considered in determining the 1976 and 1977 target prices.

Mr. President, simple justice demands that this action be taken promptly. I ask unanimous consent that the full text of this bill be printed in the RECORD.

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

S. 3367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) Section 107(c) of the Agricultural Act of 1949, as amended, is amended by changing in the first sentence the words "during the calendar year 1975" to read "during the period August 10, 1973 through December 31, 1975" and by deleting the proviso clause in such sentence and substituting in lieu thereof the following: "*Provided,* That any

increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of wheat for the calendar years 1973 through 1975 over the national average yield per acre of wheat for the calendar years 1970 through 1972 in the case of the 1976 crop and (ii) the national average yield per acre of wheat for the calendar years 1974 through 1976 over the national average yield per acre of wheat for the calendar years 1973 through 1975 in the case of the 1977 crop.";

(b) Section 105(b)(1) of the Agricultural Act of 1949, as amended, is amended by changing in the second sentence the words "during the calendar year 1975" to read "during the period August 10, 1973 through December 31, 1975" and by deleting the proviso clause in such sentence and substituting in lieu thereof the following: "*Provided,* That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of feed grains for the calendar years 1973 through 1975 over the national average yield per acre of feed grains for the calendar years 1970 through 1972 in the case of the 1976 crop and (ii) the national average yield per acre of feed grains for the calendar years 1974 through 1976 over the national average yield per acre of feed grains for the calendar years 1973 through 1975 in the case of the 1977 crop."; and

(c) Section 103(e)(2) of the Agricultural Act of 1949, as amended, is amended by changing in the first sentence the words "during the calendar year 1975" to read "during the period August 10, 1973 through December 31, 1975" and by deleting the proviso clause in such sentence and substituting in lieu thereof the following: "*Provided,* That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of cotton for the calendar years 1973 through 1975 over the national average yield per acre of cotton for the calendar years 1970 through 1972 in the case of the 1976 crop and (ii) the national average yield per acre of cotton for the calendar years 1974 through 1976 over the national average yield per acre of cotton for the calendar years 1973 through 1975 in the case of the 1977 crop."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 200

At the request of Mr. McINTYRE, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 200, to require that new forms and reports, and revisions of existing forms, resulting from legislation be contained in reports of committees reporting the legislation.

S. 411

At the request of Mr. McGEE, the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CLARK), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 411, to amend title 39, United States Code, relating to the Postal Service, and for other purposes.

S. 649

At the request of Mr. JAVITS, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 649, to provide for the use of certain funds to promote scholarly, cultural, and artistic activities between Japan and the United States, and for other purposes.

S. 1742

At the request of Mr. WILLIAMS, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1742, to prohibit the use of steel jaw traps.

S. 1812

At the request of Mr. McINTYRE, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 1812, to improve the coordination of Federal reporting services.

S. 2165

At the request of Mr. ABOUREZK, the Senator from Rhode Island (Mr. PASTORE), the Senator from Wisconsin (Mr. NELSON) and the Senator from South Dakota (Mr. McGOVERN) were added as cosponsors of S. 2165, to require that any single company be limited to operation in only one phase of the petroleum industry—production, refining, transportation by pipeline, or marketing.

S. 2445

At the request of Mr. McINTYRE, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 2445, to amend the provisions of the Social Security Act to consolidate the reporting of wages by employers for income tax withholding and old-age, survivors, and disability insurance purposes, and for other purposes.

S. 2757

At his own request, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 2757, to prevent windfall profits by automobile insurance companies during any period when the casualty rates of such companies are reduced as a result of official action in connection with the energy crisis.

S. 2854

At the request of Mr. CRANSTON, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 2854, to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolic, and Digestive Diseases in order to advance a national attack on arthritis.

S. 2899

At the request of Mr. ABOUREZK, the Senator from South Dakota (Mr. McGOVERN) was added as a cosponsor of S. 2899, to amend the Clayton Act to prevent major oil companies from controlling alternative sources of energy, such as coal, oil shale, tar sands, uranium, geothermal steam, and solar energy.

S. 2969

At his own request, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 2969, to require a reduction in motor vehicle insurance premiums in the District of Columbia, and for other purposes.

S. 2983

At the request of Mr. JAVITS, the Senator from Massachusetts (Mr. BROOKE), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 2983, the Urban Hospital Emergency Assistance Act of 1974.

S. 3063

At the request of Mr. ABOUREZK, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3063 to repeal the depletion allowance on mineral production on lands owned by the U.S. Government.

S. 3090

At the request of Mr. ABOUREZK, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3090 to amend the Internal Revenue Code of 1954 to deny a deduction for the depletion of any mine, well, or timber located on or within lands belonging to the United States.

S. 3097

Mr. TAFT. Mr. President, I ask unanimous consent that the Senator from Rhode Island (Mr. PELL), be added as a cosponsor to S. 3097 as well as the Senator from Michigan (Mr. HART). This bill will amend the Rail Passenger Service Act of 1970 in order to provide for a demonstration project providing certain rail transportation for highway recreational vehicles.

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

S. 3266

At the request of Mr. McINTYRE, the Senator from New York (Mr. JAVITS) was added as cosponsor of S. 3266, to establish a Commission on Electronic Fund Transfers.

S. 3188

At the request of Mr. JACKSON, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 3188, to establish the Sewall-Belmont House National Historic Site.

S. 3215

At the request of Mr. BROCK, the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. COOK), the Senator from Kansas (Mr. DOLE), and the Senator from Texas (Mr. TOWER), were added as cosponsors of S. 3215, to authorize the Secretary of Commerce to enhance and validate certain export expansion activities.

S. 3259

At the request of Mr. TAFT, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors to S. 3259, to amend the Rail Passenger Service Act of 1970 in order to authorize certain use of rail passenger equipment by the National Railroad Passenger Corporation.

S. 3267

At the request of Mr. JACKSON, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 3267, the Standby Energy Emergency Authorities Act.

S. 3277

At the request of Mr. DOMENICI, the Senator from North Dakota (Mr. YOUNG), the Senator from Maine (Mr. HATHAWAY), and the Senator from Oregon (Mr. PACKWOOD) were added as cosponsors to S. 3277, to amend the Solid Waste Disposal Act, to encourage full recovery of energy and resources from

solid waste, to protect health and the environment from the adverse effects of solid waste disposal, and for other purposes.

S. 3335

At the request of Mr. MAGNUSON, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 3335, the Marine Fisheries Conservation and Management Fund bill.

S. 3334

At the request of Mr. MONDALE, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 3334, to amend the Interstate Commerce Act in order to improve service in the transportation of household goods by motor common carriers.

S. 3352

At the request of Mr. MUSKIE, the Senators from Florida (Mr. CHILES), Massachusetts (Mr. KENNEDY), South Dakota (Mr. MCGOVERN), West Virginia (Mr. RANDOLPH), and Wyoming (Mr. MCGEE) were added as cosponsors to S. 3352, to provide for continued monitoring of the economy, and for other purposes.

S. 3352

At his own request the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 3352, to provide for continued monitoring of the economy, and for other purposes.

S. 3357

At the request of Mr. BURDICK, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 3357, to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, and for other purposes.

SENATE JOINT RESOLUTION 188

At the request of Mr. HELMS, the Senator from Florida (Mr. CHILES), the Senator Illinois (Mr. STEVENSON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. ERVIN), and the Senator from Virginia (Mr. WILLIAM L. SCOTT) were added as cosponsors of Senate Joint Resolution 188, to authorize the President to declare by proclamation Aleksandr I. Solzhenitsyn an honorary citizen of the United States.

SENATE JOINT RESOLUTION 202

At the request of Mr. GRIFFIN, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of Senate Joint Resolution 202, designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of the service of the incumbent Chief of Naval Operations.

ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 79

At the request of Mr. GOLDWATER, the Senator from Nevada, Mr. BIBLE; the Senator from Massachusetts, Mr. BROOKE; the Senator from New Hampshire, Mr. MCINTYRE; and the Senator from Minnesota, Mr. MONDALE; were added as cosponsors of Senate Concurrent Resolution 79, expressing the sense of the Congress with respect to the celebration of the 100th anniversary of the birth of Herbert Hoover.

SENATE RESOLUTION 310—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL COPIES OF THE REPORT ENTITLED "DEVELOPMENTS IN AGING: 1973 AND JANUARY–MARCH 1974"

(Referred to the Committee on Rules and Administration.)

Mr. MOSS (for Mr. CHURCH) submitted the following resolution:

SENATE RESOLUTION 310

Resolved, that there be printed for the use of the Special Committee on Aging 1,200 additional copies of its report to the Senate entitled "Developments in Aging: 1973 and January–March 1974."

ADDITIONAL COSPONSORS OF RESOLUTIONS

At the request of Mr. BROOKE the Senator from Connecticut (Mr. RIBICOFF), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from California (Mr. TUNNEY) were added as cosponsors of Senate Resolution 302, on the river blindness rehabilitation program for the Sahelian countries of Africa.

NATIONWIDE SYSTEM OF NO-FAULT MOTOR VEHICLE INSURANCE—AMENDMENT

AMENDMENT NO. 1137, AS MODIFIED

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

Mr. BAKER. Mr. President, on April 2, I filed an amendment to S. 354, the Federal no-fault insurance bill which is the pending business before the Senate. I send to the desk a modified version of that amendment and ask that it be appropriately filed. I also ask unanimous consent that it be printed in full in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. BAKER. My purpose in proposing this amendment is to bring the first party benefits and tort restriction provisions of S. 354 into line with the several State programs which represent sound no-fault insurance reform and which are cited as "genuine no-fault laws" by the proponents of S. 354—see the report of the Senate Commerce Committee on S. 354, report No. 93–382, page 17.

The amendment replaces the provision in S. 354 which prohibits the States from limiting the amount of first party medical expense benefits with a performance standard requiring that the States provide such benefits in an amount sufficient to pay the total medical expenses of 98 percent of the injured victims eligible to recover such benefits under the State program. Based upon data compiled by the Department of Transportation in its report to Congress on automobile insurance and compensation this standard should identify nationwide a level of benefits averaging around 3,000. In the event actuarial information is not available, sufficient to make an accurate determination based upon the foregoing performance standard, the State must provide benefits in the amount of $5,000 multiplied by an index reflecting the average daily hospital costs within that State in comparison to the national average. This alternative standard would apply under the terms of the amendment only until such time as data which enables an accurate determination of the percentage standard becomes available.

The definition of "medical expense" in the amendment is drawn from the definition of "allowable expense" which appears in the bill but with a clarification to assure that hospitalization expenses are covered. Since the amendment supplants the term "allowable expense" which also includes funeral expenses in title II of S. 354, an additional subsection is added providing funeral expenses in at least the amount of $1,000, which is the present intent of the bill.

The performance standard approach of the amendment will serve to keep the benefits provisions of complying programs abreast of medical cost inflation but without adding impetus to already rapidly inflating medical costs. Under the bill the Secretary is required every 3 years to review State programs to determine that they are still in compliance with the standard. This review process will also serve as a mechanism to keep the benefits levels in State programs up with changes in medical service experience, for example the increased utilization of medical and vocational rehabilitation programs which the bill encourages.

The amendment replaces the work loss benefits standards of the bill and replaces them with a simple performance standard requiring that such benefits be afforded in at least the amount of the average statewide wage for at least 1 year. Under the standard in the amendment any periodic payment made under the State program must at least equal the average statewide wage for that period and must equal in the aggregate the statewide average wage for a period of 1 year.

The amendment does not alter eligibility for wage replacement benefits under the bill and leaves intact provisions dealing with periodic adjustments of individual claimant's wages, reduction to reflect income tax savings, and payments to persons not regularly employed at the time of the accident but who would probably have entered the work force but for their injury.

A further modification made by the amendment to section 207(d)(2) of the bill requires that the States recalculate the average statewide wage at least every 3 years. The bill presently requires revision every 5 years, but a shorter review period will more accurately reflect fluctuations in wages.

The amendment modifies section 206 of S. 354 dealing with restrictions on tort liability to bring the Federal minimum standard into close approximation of the Department of Transportation's definition of serious injury which furnished the basis for the serious injury evaluation in the "Automobile Insurance and Compensation Study." The standard also conforms to tort restriction provisions

adopted in Georgia, New York, Utah, Colorado, Kansas, and Massachusetts.

The amendment basically requires that the State abolish tort liability except for death and for injuries which meet a broad definition of serious or permanent injury. The definition is stated in the disjunctive so that the States are free to choose upon what basis lawsuits will be restricted, that is, a State may choose under the provision to limit access to lawsuits for negligent harm upon the basis of any one or more of catastrophic injury—such as disfigurement or loss of sight, et cetera—disability—either temporary or permanent—the cost of required medical treatment, or the length of required hospitalization.

However, whatever basis chosen the limit must meet the minimum definition specified in the amendment—for instance, medical expense thresholds must be in at least the amount of $500 but may be more, occupational disability thresholds must require 3 weeks of such disability but may be longer, and so on.

The most easily understood and applied threshold—and the one in widest use—is the medical expense limitation. Under the amendment this threshold, if used, must provide for an expense limit of $500. One of the problems with this type of threshold is that medical costs vary among the regions of a State and among varying economic classes. The amendment addresses this problem in the manner suggested by Senate bill No. 10, January 8, 1972, and cited in the Institute for the Future—NSF-RANN—analysis of no-fault insurance, by providing that medical expenses be calculated for the purpose of the tort restriction upon the basis of the reasonable average costs in the State of the same or similar services. Such a provision was included in the recently enacted Georgia no-fault plan.

Dollar medical expense thresholds are beginning to come under criticism on the basis that they tend to inflate medical expenses and lead to fraudulent claims practices. The experience in Florida, where chicanery is apparently so widespread that premiums are being driven up, is very disturbing. The experience in Massachusetts, which has an even lower dollar threshold than Florida, has been to the contrary very encouraging. The Institute for the Future in an analysis of no-fault mechanisms funded by the National Science Foundation states:

In a negligence-based suit, medical bills of even a modest amount strengthen the innocent victim's pain-and-suffering claim. However, under the Massachusetts no-fault plan, a suit is not possible unless the victim's total medical expenses exceed $500. Hence, those victims who believe that their injuries are not serious and think that, if pursued, the medical expenses would be nominal are likely to do nothing at all. They face the prospect of incurring, say, $200 in medical bills, for which they would undergo considerable inconvenience. All they would receive for this would be reimbursement for the actual expenses they paid for these medical services. The leverage that these small medical expenses had in strengthening their pain-and-suffering claims is eliminated by the threshold provision." (Institute for the Future, *Some Impacts of No-Fault Automobile Insurance*, Vol. 1, page 16).

The amendment does not require the use of a medical expense threshhold. It permits the States to employ such a threshhold but only in the minimum amount of $500. In view of the disparity in the experience of States which have employed such thresholds, the flexibility of the amendment would appear to be totally justified in this specific regard.

Other items suggested as the basis for the tort restriction include items of catastrophic injury such as dismemberment—traumatic or surgical amputation as the result of an automobile accident—serious and permanent disfigurement—presently included in the bill—the permanent loss of a bodily function—a term widely used in States plans—and the permanent partial or total loss of sight or hearing.

Additionally, the State may elect to define "serious or permanent injury" upon the basis of hospitalization reasonably required as a result of an accident for a period of at least 2 weeks or upon the basis of temporary or permanent disability. The definition of serious injury in terms of temporary disability—3 weeks of disability preventing a victim from working at his normal occupation, or 6 weeks of disability to engage in a substantial part of normal daily activities—is derived from the Department of Transportation study cited above.

The amendment also provides that an injured victim whose economic loss exceeds the benefits provided under the State plan may bring an action to recover the amount of their loss in excess of those limits. This is in consonance with the present provisions of S. 354, except in one significant regard. Under S. 354 an injured victim whose monthly wages exceeds the monthly limitation upon wage replacement benefits in the applicable State plan may not seek to recover that excess in a legal action even after he has exhausted all wage replacement benefits under such program. Under the amendment the State plan could provide that the victim could seek to recover any and all economic loss for which benefits are not provided.

This amendment addresses only those sections of the bill dealing with benefits levels for first-party coverages and restrictions on actions based upon negligence. I consider these to be the heart of this Federal minimum no-fault standards bill and to be the heart of the problem as regards unwarranted Federal intrusion into developing State programs. However, it is clear that in many additional regards this bill draws substantial practical and constitutional issues which need to be resolved before final action. While this amendment does not presume to address all of these serious questions, it does, I hope, reflect a concern to make more constructive the basic import of this legislation.

As I said at the time of the introduction of the amendment—I do not believe that standards which would arrogantly supplant the efforts of the States with an untried program of extended no-fault benefits can be fairly characterized as Federal minimum standards legislation. Passage of such standards would end experimentation with various types of no-fault insurance and would cast in concrete a program which, though it might serve some jurisdictions well, could certainly ill-serve others.

EXHIBIT 1

AMENDMENT No. 1137

On page 100, strike everything beginning with line 10 through and including line 13 on page 101 and insert in lieu thereof the following (and renumber subsequent subsections):

"(a) must provide medical expense benefits sufficient to fully compensate at least 98 per centum of all eligible motor vehicle accident victims for such expenses; Provided, That if the Secretary determines that statistical data is not reasonably available to accurately determine the level of benefits required to meet the foregoing standard in a State, benefits for medical expense shall be provided in the amount of $5,000 multiplied by a fraction, the numerator of which is the average daily hospital costs in that State and the denominator of which is the average daily hospital cost nationally;

(b) must provide benefits for work loss which shall not be less than the average statewide wage and for a period of one year or longer; provide that no periodic payment during the first year for which work loss benefits are payable shall be less than the average statewide wage for such period.

(c) must provide-benefits for expenses directly related to the funeral, burial, cremation, or other form of disposition of the remains of a deceased victim of not less than $1,000.00.".

On page 104 in line 8 delete the word "is" and insert in lieu thereof the words "must be".

On page 105 strike everything beginning with the word "section" in line 3 through the word "Act" in line 6, and insert in lieu thereof "section 204(a), (b), (c), (d) or (e) of this Act.".

On page 105 in line 8 strike everything beginning with the phrase "in excess of" through the word "activities" in line 18 and insert in lieu thereof the following and renumber the remaining subsection:

"if the accident results in:

(A) death, or

(B) serious or permanent injury.

(b) For the purposes of this section the State may define

"serious or permanent injury" upon the basis of any one or more of the following:

(1) dismemberment, or

(2) serious and permanent disfigurement, or

(3) the permanent loss of a bodily function, or

(4) the permanent, partial or total loss of sight or hearing, or

(5) medical expenses of $500 or more, or

(6) two weeks or more of hospitalization, or

(7) three weeks or more of disability which prevents a victim from working at his normal occupation, or

(8) six weeks or more of disability which prevents a victim from engaging in a substantial part of their normal daily activities,

(9) permanent disability which at a minimum prevents a person from engaging in a significant portion of their normal daily activities;

provided that an approved State plan elects to define "serious injury" upon the basis of the dollar cost of medical expenses must provide that the value of any product, service or accommodation which is included or includable as a portion of medical expenses for the purpose of meeting such limitation shall be equal to the reasonable average

cost of the same or similar product, service, or accommodation in that State as determined and specified by the Commissioner."

On page 60, after line 5 insert the following:

"(4) 'Average statewide wage' shall be determined by dividing the total annual wages of covered workers under the State unemployment insurance program and the total annual wages of Federal and military personnel within a State covered under unemployment compensation for Federal employees and unemployment compensation for veterans by the average monthly employment for such categories of employees during the most recent year for which such data is available. The State in the determination of the average statewide wage may supplement the foregoing with wage and employment data covering State and local employees not covered under the State unemployment insurance program.".

On page 105 after line 25 insert the following and renumber the subsequent sections:

SEC. 207. MEDICAL EXPENSES.—As used in this title the term "medical expenses"

"(a) means reasonable charges incurred for, or the reasonable value of (where no charges are incurred), the reasonably needed and used products, services, and accommodations for professional medical treatment and care, emergency health services, hospital accommodations and services, and medical and vocational rehabilitation services;

(b) shall not include that portion of a charge for a room in a hospital, clinic, convalescent, or nursing home, or any other institution engaged in providing nursing care and related services in excess of a reasonable and customary charge for semi-private accommodations, unless more intensive care is medically required;

(c) may be subject to such specific exclusions as a State may deem appropriate and reasonable in the definition of serious injury for the purpose of Sec. 206.

On page 107 strike the phrase "at five-year intervals" in line 8 and insert in lieu thereof the phrase "at three-year intervals".

On page 107 strike everything from and including line 10 through the word "Labor" in line 16 and insert in lieu thereof the following:

"the State shall recalculate the average statewide wage based upon the most current year for which statistics are then available and, if necessary, revise the work loss benefits provisions of the State plan to conform to any change in average statewide wage."

EXTENSION OF POSTAL RATE ADJUSTMENTS—AMENDMENT

AMENDMENT NO. 1198

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

Mr. BEALL submitted an amendment intended to be proposed by him to the bill (S. 411) to amend title 39, United States Code, relating to the Postal Service.

FARM LABOR CONTRACTOR REGISTRATION ACT AMENDMENTS OF 1974—AMENDMENT

AMENDMENT NO. 1199

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. CURTIS submitted an amendment intended to be proposed by him to the bill (S. 3202) to amend the Farm Labor Contractor Registration Act of 1963 to provide for the extension of coverage and to further effectuate the enforcement of such act.

EXPORT ADMINISTRATION AMENDMENTS OF 1974—AMENDMENT

AMENDMENT NO. 1200

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. PROXMIRE. Mr. President, I am submitting today an amendment intended to be proposed by me to S. 3282, which extends the Export Administration Act of 1969. The act will expire on June 30 of this year and is presently being considered for renewal by the Subcommittee on International Finance of the Senate Banking Committee.

The purpose of my amendment is to exclude from the act's coverage exports of iron and steel scrap that are sent out of the United States for casting and which will subsequently be returned to this country in the form of cast ferrous products.

In 1969 Congress passed the Export Administration Act authorizing the Secretary of Commerce to impose export restrictions when he deemed such restrictions necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand, to further the foreign policy of the United States, and to further the national security of the United States.

In July 1973, the Secretary determined that ferrous scrap was in short supply on the domestic market. Consequently, he imposed a quota system on future exports. Under the present quota system, total exports of scrap for 1974 will be restricted to approximately 8.4 million net tons.

This limitation has had a disruptive impact on the operations of certain domestic companies who have relied historically on cast ferrous products produced in foreign foundries. A prime example can be found in my own State of Wisconsin. The largest employer in my State is American Motors Corp. In Wisconsin alone, American Motors employs approximately 17,000 people. For over 10 years American Motors has obtained its six-cylinder engine block castings from Holmes Foundry in Sarnia, Ontario, a wholly owned subsidiary of American Motors since 1970. Since the imposition of the export controls on scrap iron and steel, American Motors has found it exceedingly difficult to obtain adequate supplies of ferrous scrap for Holmes Foundry in order to meet its needs for engines. This has had the effect of restricting American Motors' ability to increase production at the very time when this country's need for fuel-economy cars is most critical. This inadequate supply situation has become so severe that at times during this past year American Motors was working on a production inventory of engine blocks equivalent to less than 1 day's assembly line time. If the problem is not corrected American Motors may be forced to severely cut back production schedules or to shut down assembly lines entirely for sporadic periods. Such cutbacks would affect not only employees in Wisconsin but also in Ohio, Michigan, and Indiana. They would also have an indirect but substantial impact on employees of American Motors' suppliers.

The amendment I have introduced today provides appropriate relief for this critical problem but does not disrupt our original objectives embodied in the Export Administration Act. The amendment permits domestic companies to export iron and steel scrap if at the time of shipment the exporter has obtained a commitment for the reimportation of cast ferrous product produced from the exported scrap. The requirement of reimportation of an equivalent weight of product guarantees that the United States will not suffer a drain on its ferrous scrap resources as a result of this exemption. Furthermore, the amendment does not affect the power of the Secretary to impose export controls on iron and steel scrap when such restrictions are necessary to further our foreign policy or protect our national security.

In short, this amendment is designed to eliminate a very specific but potentially far-reaching problem. It accomplishes this with minimal disruption of the present structure of the act. I believe the amendment should receive the careful consideration of this body. I feel sure my colleagues will agree that the problem is real and the need for relief immediate.

NATIONWIDE SYSTEM OF NO-FAULT MOTOR VEHICLE INSURANCE—AMENDMENT

AMENDMENT NO. 1201

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

Mr. HATHAWAY submitted an amendment intended to be proposed by him to the bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

AMENDMENT NO. 1202

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

NO-FAULT INSURANCE OVERSIGHT AMENDMENT

Mr. PERCY. Mr. President, the No-Fault Motor Vehicle Insurance Act, S. 354 is now being considered by the Senate. I have been carefully studying this proposal as well as the lengthy reports of the Commerce and Judiciary Committees. While not an expert in insurance matters, I have learned much from the scholarly debate that is now being conducted in the Senate.

As a general principle, I am strongly in favor of allowing the States to act in a field of governmental activity as they see fit. I recognize the desirability, indeed the need, for encouraging different States to use different approaches to social problems at different times. This is the essence of federalism which goes to the very heart of our governmental system. It is for this reason that I supported the Nixon administration's proposal that the States be given several years in which to adopt genuine no-

fault statutes of their own. Unfortunately, in the face of mounting evidence of the inadequacies of the present automobile liability insurance system, many States have done nothing or have not acted in a meaningful fashion.

Because of this unreasonable delay and the manifest need of all Americans for better automobile insurance coverage, I support the adoption of a national no-fault insurance system by means of establishing reasonable minimum standards applicable to all of the States. A Federal no-fault insurance system offers the possibility of lower premium rates for most drivers, broader coverage for most victims, and quicker, more equitable payment to those most seriously injured.

While I have not yet made a final decision about S. 354, and will want to carefully study alternate proposals, I do feel that the operation of any Federal no-fault insurance system requires close legislative and executive branch scrutiny. As a result, I am today introducing an amendment to S. 354 designed to enable the Congress and the President to undertake this important oversight function.

The amendment directs the Secretary of Transportation to annually analyze the operation of the various State no-fault insurance plans that would be established under S. 354 in order to determine their effect on insurance premium costs, on various economic, and social groups, on court backlogs, and on the state of competition within the insurance industry. Under this amendment the Secretary of Transportation would be required to include in his report recommendations on how any cost savings resulting from the creation and operation of a national no-fault insurance system could be best passed on to the motoring public. We need to know whether the fears of the opponents of S. 354 are well founded or whether the arguments of its supporters are sustainable.

I ask unanimous consent that this amendment be inserted in the RECORD at this point for the benefit of my colleagues.

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

AMENDMENT NO. 1202

On page 98, between lines 14 and 15, insert the following:

(g) REPORTING REQUIREMENTS.—The Secretary, in cooperation with the commissioners, shall annually review the operation of State no-fault plans for motor vehicle insurance established in accordance with this Act and report on—

(1) the cost-savings resulting from the institution of any such plan which meets or exceeds the national standards set forth in this Act and any subsequent savings resulting from the continuing operation of such plans;

(2) appropriate methods for refunding to members of the motoring public any cost-savings realized from the institution and operation of such no-fault insurance plans;

(3) the impact of no-fault insurance on senior citizens; those who live in farming and rural areas; those who are economically disadvantaged, and those who live in inner cities;

(4) the impact of no-fault insurance on the problem of duplication of benefits when an individual has other insurance coverage which provides for compensation or reimbursement for lost wages or for health and accident (including hospitalization) benefits;

(5) the effect of no-fault insurance on court congestion and delay resulting from backlogs in State and Federal courts;

(6) the impact of no-fault insurance, reduced speed limits and other factors on automobile insurance rates; and

(7) the impact of no-fault insurance on competition within the insurance industry, particularly with respect to the competitive position of small insurance companies.

The Secretary shall report to the President and Congress simultaneously on July 1 each year on the results of such review and determination together with his recommendations thereon.

TRADE EXPANSION ACT—AMENDMENTS

AMENDMENT NO. 1203

(Ordered to be printed and referred to the Committee on Finance.)

Mr. BENTSEN. Mr. President, I am today submitting to H.R. 10710, the Trade Expansion Act, an amendment intended to be proposed by me to provide for an import information system to facilitate the location of supplies of raw materials and other commodities necessary to the U.S. economy abroad when they become unavailable domestically. Current shortages of vital primary materials for industry and agriculture are becoming increasingly critical and widespread. The most obvious—but far from the only—is petroleum, but we are beginning to experience increasingly serious shortages of non-fuel materials as well.

Clearly, Mr. President, adequate supplies of primary commodities and industrial materials are essential to allow American industry to respond to consumer and manufacturing needs. In a world increasingly characterized by shortages of supply, the location of commodities can be crucial to continued production. Adequate supplies are a major prerequisite to insure uninterrupted domestic production, acceptable levels of employment and prosperity. In addition, uninterrupted flows of commodities are basic to a continued U.S. ability to export finished and intermediate products in a competitive world market.

The United States is rapidly joining the rest of the industrial world in depending on third-world countries for its supplies of raw materials. According to the U.S. Department of the Interior, the United States already depends on imports for more than half of its supply of 6 of 13 basic raw materials required by an industrial society. Raw material needs of U.S. industry can no longer be satisfied from domestic supplies under present conditions of available technology. When commodities for industrial usage cannot be supplied by American extractive industry, we must move to facilitate the location of alternative sources of supply abroad.

Present programs and facilities used by the U.S. Department of Commerce in export promotion programs can and must be adapted to deal with commodity shortages. The current U.S. system of export promotion has various programs and a considerable deal of expertise that can readily be employed to locate potential sources of supply when there are none available domestically. The Commerce Department has country expert teams, commodity experts, and a regional network of offices throughout the United States involved in the stimulation of exports. This structure can be hooked up with commercial attachés in our embassies abroad to pinpoint potential foreign supplies. This network of commercial offices at home and abroad can readily be adapted to supply information about potential sources of primary products and industrial inputs. Some information relating to prospective supplies is already furnished U.S. industry on an informal basis. But the system has not been developed to the degree where it is meaningful or extensive enough to meet the needs of industry. And there is sufficient demand to indicate that such a system is potentially very useful. For example, the regional office of the Commerce Department in Dallas consistently receives numbers of inquiries about raw materials in short supply but simply does not have the information available on potential foreign supplies. With over half our commodity needs supplied from abroad, such a lack of information could be disastrous for large as well as small companies which can no longer obtain sufficient supplies from domestic sources.

Clearly, Mr. President, information on sources of raw materials on an up-to-date basis is indispensable. The computerized export program at the Department of Commerce, which matches prospective foreign buyers with registered domestic producers, can easily be turned around to match domestic manufacturers with foreign suppliers when the commodity in demand is not available domestically.

In a world economic situation where the prospect of recurring shortages has become more and more a reality, and where there is growing dependence on foreign sources of supply, small business will be at a definite disadvantage. Large companies with a knowledge of alternative sources of supply will have relatively less difficulty in locating primary materials for their ongoing operations than small business. However, in a continuing tight world supply situation, even these companies face competitors who are supported and aided in numerous ways by their governments. This puts the American businessman at a distinct disadvantage.

My amendment, providing important information to American industry and thereby facilitating the expansion of export facilities, would complement the other forms of relief now included in the Trade Expansion Act. We must insure that American industry has the materials it needs to continue to produce and to provide the jobs we need in this country. In no way, Mr. President, does my amendment intend to increase the dependence of U.S. industry on foreign sources of supply. I am very concerned over our growing reliance on foreign sources of raw materials and I am strongly in favor of developing the large, presently untapped sources we have

available domestically as well as developing alternative metals from domestic resources. But this will take time and meanwhile, when we face domestic shortages of commodities, we will have to continue importing foreign supplies in order to prevent disruption of American production.

Increasing world economic interdependence has a direct influence on domestic employment, production, and standards of living. Relatively inflexible supplies and rising demand for many goods has, in a short period of time, transformed the world from a buyers' to a sellers' market, making it increasingly difficult to find adequate supplies. To produce goods for the American market, and to be able to export, there must be adequate supplies of primary materials. I believe the location of supplies can be greatly facilitated and improved by adequate import information as provided by this amendment. This amendment will contribute to the alleviation of pressures caused by a tight commodity and materials market and I urge the Senate Finance Committee to give it favorable consideration.

NATIONWIDE SYSTEM ON NO-FAULT MOTOR VEHICLE INSURANCE—AMENDMENTS

AMENDMENT NO. 1204

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

Mr. ABOUREZK submitted an amendment intended to be proposed by them jointly, to the bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

AMENDMENTS NOS. 1205 AND 1206

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

Mr. ABOUREZK submitted two amendments intended to be proposed by him to the bill (S. 354), supra.

AMENDMENT NO. 1207

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

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (S. 354), supra.

VETERANS' EDUCATION AND REHABILITATION AMENDMENTS ACT OF 1974—AMENDMENT

AMENDMENT NO. 1208

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (H.R. 12628) to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and other persons; to make improvements in the educational assistance programs; and for other purposes.

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

AMENDMENT NO. 1208

On page 13, beginning with line 6, strike out all down through line 3 on page 15, and insert in lieu thereof the following:

SEC. 6. (a) Title 38, United States Code, is amended by adding at the end thereof the following new part:

"PART VII. OVERVIEW AND EVALUATION OF VETERANS' AFFAIRS

"Chapter Sec.
"100. Commission on Veterans' Rights--10001

"CHAPTER 100—Commission on Veterans' Rights; Monitoring of Veterans' Administration Operations

"SUBCHAPTER I—Commission on Veterans' Rights

"Sec.
"10001. Establishment of the Commission; compensation of members.
"10002. Duties of the Commission.
"10003. Powers of the Commission.
"10004. Rules of procedures of the Commission.
"10005. Veterans' complaints.
"10006. Information disclosure.
"10007. Cooperation with veterans' organizations; advisory committees.
"10008. Authorization for appropriations.

"SUBCHAPTER II—Monitoring of Veterans' Administration Operations

"Sec.
"10101. Commmission Representatives.
"10102. Function of Commission Representatives.
"10103. Rules for Commission Representative operation.

"§ 10001. Establishment of Commission; compensation of members.

"(a) There is created in the executive branch of the Government an independent Commission on Veterans' Rights (hereinafter called the 'Commission').

"(b) The Commission shall be composed of 15 members who shall be appointed as follows:

"(1) nine members to be appointed by the President, by and with the advice and consent of the Senate, from recommendations submitted to the President and Congress by Federally-chartered and other national veterans' organizations, at least three of whom shall be veterans of the Vietnam era and not more than five of whom shall, at any one time, be members of the same political party;

"(2) three members to be appointed by the Speaker of the House of Representatives, not more than two of whom shall be members of the same political party, upon the recommendation of the majority and minority memberships, respectively, of the Committee on Veterans' Affairs of the House of Representatives; and

"(3) three members to be appointed by the majority leader of the Senate upon the recommendations of the majority and minority memberships of the Committee on Veterans' Affairs of the Senate, not more than two of whom shall be members of the same political party.

"(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman, and such members shall serve as Chairman and Vice Chairman, respectively, for period of one year following the initial appointment of the Commission members. Thereafter, the Chairman and Vice Chairman shall be chosen by a majority vote of the total membership of the Commission. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

"(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party membership, as the original appointment.

"(e) Ten members of the Commission shall constitute a quorum.

"(f) (1) The terms of office of members first appointed to the Commission shall expire as follows:

"(A) In the case of members appointed by the President, three at the end of one year, three at the end of three years, and three at the end of five years, as designated by the President at the time of appointment.

"(B) In the case of members appointed by the Speaker of the House of Representatives, one at the end of five years, as designated by the Speaker at the time of appointment.

"(C) In the case of members appointed by the majority leader of the Senate, one at the end of one year, one at the end of three years, and one at the end of five years, as designated by the majority leader at the time of appointment.

The terms of office of all successors shall expire 5 years after the terms for which their predecessors were appointed, but any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed may be appointed only for the unexpired term of his predecessor.

"(2) A member of the Commission may be removed by a vote of 9 other members for malfeasance in office or for persistent neglect of, or inability to discharge his duties, or for offenses involving moral turpitude and for no other cause.

"(g) Each member of the Commission who is not otherwise employed by the United States Government shall receive an amount equal to the daily rate paid a GS-18 under the General Schedule contained in section 5332 of title 5 (including travel time) during which he is engaged in the actual performance of his duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"(h) The Administrator of General Services is authorized and directed to furnish the Commission with such offices throughout the United States as are necessary to the proper execution of the purposes of the Commission, together with such equipment, supplies, and services as are necessary, to the same extent as the Administrator of General Services is authorized to furnish to any other Federal agency.

"§ 10002. Duties of the Commission

"(a) The Commission shall—

"(1) review the effectiveness and appropriateness of all laws providing rights and benefits for veterans, the regulations issued under such laws by the Federal agency (which for the purposes of this chapter shall include any department, agency, or instrumentality of the United States) charged with the responsibility for administering such laws, and the method of implementing, and the operation of, the programs designed to provide such rights and benefits;

"(2) make special studies of the effectiveness and appropriateness of all laws, regulations, and programs provided for, or applicable to, veterans of the Vietnam era;

"(3) monitor and evaluate the effectiveness of veterans' programs provided pursuant to State and local laws, particularly where Federal funds may be involved;

"(4) investigate patterns of allegations indicating that veterans are being denied rights or benefits authorized by law or regulation, or that the hospital care or medical services, nursing home care, or domiciliary care is inadequate, or that payments of benefits under any law are being delayed or otherwise being inefficiently administered;

"(5) appraise the adequacy and equitabil-

ity of the laws, appropriations, and policies of the Federal Government with respect to meeting the needs of veterans to readjust to civilian life and compensating them for their losses attributable directly or indirectly to their service in the Armed Forces, and make recommendations and draft proposed legislation to improve the adequacy and equitability of such laws and policies where indicated;

"(6) serve as a national clearinghouse and dissemination center for information relating to the needs and problems of veterans and the resources available and required to meet such needs and solve such problems;

"(7) advise the President and the Congress regarding the effectiveness and appropriateness of all proposed legislation and new programs affecting veterans' rights and benefits; and

"(8) serve as an advocate for the correction of problems, and the enactment and full implementation of adequate and equitable laws providing for veterans' rights and benefits, as may be revealed through the activities of the Commission.

"(b) The Commission shall submit a report to the President and the Congress setting forth its findings and recommendations, with respect to its activities carried out pursuant to this chapter, at such intervals as it shall determine, but its initial report shall be submitted not later than six months after the first meeting of the Commission, and thereafter reports shall be submitted at least annually. The Commission shall submit to the President, each agency, department, and instrumentality of the United States concerned, and the appropriate Committees of the Senate and House of Representatives a report on all legislation introduced in the Congress affecting veterans' rights and benefits, and shall submit to such Committees of the Congress, within sixty days after the submission to the Congress of the President's annual budget request, its assessment of the adequacy of such request to provide sufficient funds to carry out effectively all existing laws and programs affecting veterans' rights and benefits.

"(c) (1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require nor shall require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"§ 10003. Powers of the Commission

"(a) In carrying out its functions under this chapter, the Commission is authorized to—

"(1) determine the qualifications of, appoint, assign the duties of, and fix the compensation of, in accordance with civil service and classification laws, such officers and employees, including attorneys, as are necessary to perform the functions vested in it, including a full-time Executive Director, Deputy Executive Director, and General Counsel;

"(2) employ experts, expert witnesses, and consultants in accordance with section 3109 of title 5 and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5 for each day they are so employed;

"(3) appoint advisory committees composed of such private citizens and officials of Federal, State, and local governments as it deems desirable to advise it, and compensate such persons other than those employed by the Federal Government at rates not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5 for each day they are engaged in the actual performance of their duties as members of a committee and pay such persons travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5 in connection with such persons' participation at such meetings as are open to the public;

"(4) promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in it and delegate authority for the performance of any such function only to any officer or employee under its direction and supervision;

"(5) utilize, with their consent, the services, personnel, and facilities of Federal, State, regional, local, and private agencies and instrumentalities, with or without reimbursement therefor, and transfer funds made available under this chapter to Federal, State, regional, local, and private agencies and instrumentalities as reimbursement for utilization of such services, personnel, and facilities;

"(6) accept voluntary and uncompensated services, except where such services involve administrative proceedings, investigations, or enforcement powers, notwithstanding the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665);

"(7) adopt an official seal, which shall be judicially noticed;

"(8) establish such regional offices as the Commission determines to be necessary to serve the interests of veterans;

"(9) conduct conferences and hearings and otherwise secure data and expressions of opinion;

"(10) accept unconditional gifts or donations of services, money or property, real, personal, or mixed, tangible or intangible, except that the acceptance of donations of services shall be subject to the provisions of paragraph (6) of this subsection;

"(11) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), enter into contracts, leases, cooperative agreements, or other transactions with any public agency or instrumentality or with any person;

"(12) designate representatives to serve or assist on such committees as the Commission may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies carrying out programs and activities related to the interests of veterans; and

"(13) perform such other administrative activities as may be necessary for the effective fulfillment of its duties and functions.

"(b) Upon written request by the Commission, each Federal agency is authorized and directed to allow access to all documents, papers, and records in its possession which the Commission deems necessary for the performance of its functions and to furnish at cost copies of specified documents, papers, and records. Notwithstanding this subsection, a Federal agency may deny the Commission access to and copies of—

"(1) information properly classified in the interest of national defense or national security by an individual authorized to classify such information under the terms of Executive Order 10501 of November 5, 1953, and Executive Order 11652 of March 10, 1972, or any orders amending or superseding such orders, and restricted data whose dissemination is controlled pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

"(2) policy and prosecutorial recommendations by agency personnel intended for internal agency use only;

"(3) information concerning routine executive and administrative functions which is not otherwise a matter of public record;

"(4) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

"(5) information which such agency is expressly prohibited by law from disclosing to another Federal agency; and

"(6) trade secrets and commercial or financial information descibed in subsection (b) (4) of section 552 of title 5—

"(A) obtained prior to the effective date of this chapter by a Federal agency, if the agency had agreed to treat and has treated such information as privileged or confidential and states in writing to the Commission that, taking into account the nature of the assurances given, he character of the information requested, and the stated purpose for which access is sought, to permit such access would constitute a breach of faith by the agency; or

"(B) obtained subsequent to the effective date of this chapter by a Federal agency, if such agency has agreed in writing as a condition of receipt to treat such information as privileged or confidential, on the basis of a reasonable determination (by the head of such agency) set forth in writing that such information was not obtainable without such an agreement and that failure to obtain such information would seriously impair the carrying out of the agency's program, and access to which is likely to cause substantial competitive injury to the person who provided the information.

Before granting the Commission access to any such trade secrets and commercial or financial information, the agency shall notify the person who provided such information of its intention to do so and the reasons therefor, and shall afford such person a reasonable opportunity, not to exceed ten days, to comment or seek injunctive relief. Where access to information is denied to the Commission by a Federal agency pursuant to this paragraph, the head of the agency and the Commission shall seek to find a means of providing the information in such other form, or under such conditions, as will meet the agency's objections.

"(c) The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this chapter, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with such rules as the Commission may adopt, consistent with the provisions of section 10004 of this chapter, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a subcommittee to hold hearings pursuant to this subsection, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which a quorum of members is present.

"(d) In case of contumacy or refusal of any person to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which such person alleged to be guilty of contumacy or refusal to obey is found or resides or is domiciled or tranacts business, or has appointed an agent for receipt of service of process, upon application 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 Commission or a subcommittee thereof, there to produce pertinent, relevant, and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(e) Each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation.

"(f) (1) Whenever the Commission determines that the result of any Federal agency proceeding which is subject to the provisions of section 553, 554, 556, or 557 of title 5, relating to administrative procedure, or which involves a hearing pursuant to the administrative procedural requirements of any other statute, regulation, or practice, or which is conducted on the record after opportunity for an agency hearing, or with public notice and opportunity for comment, may substantially affect the rights or benefits of veterans, the Commission may intervene as of right as a party or otherwise participate for the purpose of representing the interests of veterans in such proceeding. The Commission shall comply with agency statutes and rules of procedure of general applicability governing (A) intervention or participation in such proceeding and (B) the conduct of such proceeding. In any such proceeding, the Commission shall refrain from intervening as a party, unless it determines that such intervention is necessary to represent adequately an interest of veterans. The intervention of the Commission in any such proceeding shall not affect the obligation of the Federal agency conducting such proceeding to assure procedural fairness to all parties thereto.

"(2) With respect to any Federal agency proceeding not covered by paragraph (1) of this subsection, or any other Federal agency activity, which the Commission determines may substantially affect the interests of veterans, the Commission may participate by presenting written or oral submissions, and the Federal agency shall give full consideration to such submissions of the Commission. Such submissions shall be presented in orderly manner and without causing undue delay.

"(3) Each Federal agency concerned with any rights or benefits of veterans shall review its rules of procedure of general appliability, and, after consultation with the Commission, issue any additional rules which may be necessary to provide for the Commission's orderly intervention or participation, in accordance with this subsection, in its proceedings and activities which may substantially affect the interests of veterans. Such additional rules shall be published in proposed and final form in the Federal Register.

"(4) Whenever the Commission determines that it would be in the interests of veterans to do so, it may request or petition any Federal agency to initiate a proceeding or activity or to take such other action as may be within the authority of such agency. If such agency fails so to act in any civil matter, it shall promptly notify the Commission in writing of the reasons therefor and such notice shall be a matter of public record.

"(5) In any Federal agency proceeding or activity in which it is intervening or participating, the Commission is authorized to request the Federal agency to issue such orders as are appropriate under the agencies rules of practice and procedure consistent with paragraph (3) of this subsection with respect to the summoning of witnesses, copying of documents, papers, and records, production of books and papers, and submission of information in writing. Such Federal agency shall issue such orders unless it reasonably determines that any such order requested is not relevant to the matter at issue, would be unnecessarily burdensome to the person specified, or would unduly interfere with such Federal agency's discharge of its own statutory responsibilities.

"(6) The Commission is authorized to represent an interest of veterans which is presented to it for its consideration upon petition in writing by a substantial number of veterans or by any organization named in section 3402 of this title. The Commission shall notify the principal sponsors of any such petition within a reasonable time after receipt of any such petition of the action taken or intended to be taken by it with respect to the interest of veterans presented in such petition. If the Commission declines or is unable to represent such interest, it shall notify such sponsors and shall state its reasons therefor.

"(7) Nothing in this chapter shall be construed to limit the discretion of any Federal agency or court, within its authority, to grant the Commission additional participation in any proceeding or activity, to the extent that such additional participation may not be as of right, or to provide additional notice to the Commission concerning any agency proceeding or activity.

"(g) (1) The Commission shall have standing to obtain, in the manner prescribed by law, judicial review of any Federal agency action reviewable under law. The Commission may intervene as of right as a party or otherwise participate in any civil proceeding in a Federal court which involves the review or enforcement of a Federal agency action if it determines that such action substantially affects the interests of veterans and it intervened or participated in the Federal agency proceeding or activity out of which such court proceeding arises, or where it did not so intervene or participate, unless the court determines that intervention or participation under this subsection would adversely affect the interests of justice.

"(2) Before instituting a proceeding in a Federal court to obtain review of any Federal agency action where it did not intervene or participate in the agency proceeding or activity out of which such action arose, the Commission shall file, in the manner prescribed by law, a petition before such agency for rehearing or reconsideration if a petition for rehearing or reconsideration is authorized by law. Such agency shall act upon such petition within sixty days, except where otherwise expressly provided by statute.

"(3) The participation of the Commission in a proceeding for judicial review of a Federal agency action shall not alter or affect the scope of review otherwise applicable to such agency action.

"(h) Nothing in this chapter shall be construed to prohibit the Commission from communicating with Federal, State, and local agencies and courts at any time and in any manner consistent with law.

"(i) Appearances by the Commission under this chapter shall be in its own name and shall be made by attorneys designated by the Commission.

"(j) The Commission shall have the power to make such rules and regulations as are necessary to carry out the purposes of this chapter.

"(k) The provisions of section 709 of title 18 shall apply to the use of the official seal of the Commission after its adoption and publication in the Federal Register, except as authorized under rules and regulations issued by the Commission.

"§ 10004. Rules of procedure of the Commission

"(a) At least 10 days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held, and the subject of the hearing. The Chairman or Vice Chairman or a Member designated by the Chairman to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

"(b) A copy of the Commission's rules shall be made available in advance to any witness called before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpena.

"(c) Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, make objections on the record, and argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

"(d) The Chairman or Acting Chairman may punish breaches of order and decorum at any hearing conducted by the Commission by censure and exclusion from such hearings.

"(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or a summary of such evidence or testimony in executive session. The Commission shall afford any such person an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in a manner that will reveal publicly the identity of such person, such evidence or testimony shall, prior to public release or use thereof, be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his or her own behalf and to submit brief and pertinent sworn statements of others.

"(f) Subject to the provisions of section 10003(f) of this title, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

"(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission.

"(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

"(i) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, public or executive, of the Commission or any subcommittee thereof.

"(j) A witness attending any session of the Commission shall receive a per diem allowance in an amount authorized by section 5703 of title 5 for each day's attendance

and for the time necessarily occupied in going to and returning from the same, and the mileage and related allowances prescribed in section 5704 of title 5 for going from and returning to places of residence. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

"(k) The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

"(l) The Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including the established places at which, and methods whereby, the public may secure information, make requests, or submit complaints; (2) statements of the general course and method by which its functions are channeled and carried out; and (3) rules and regulations proposed to be and those finally adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, regulations, organization, or procedures not so published.

"§ 10005. Veterans' complaints

"(a) Whenever the Commission receives from any person any signed complaint or other information which discloses—

"(1) an apparent violation of law, agency rule or order, or a judgment, decree, or order of a State or Federal court relating to an interest of veterans; or

"(2) a commercial, trade, or other practice which is detrimental to an interest of veterans;

the Commission shall, unless it determines that such complaint or information is frivolous, promptly transmit such complaint or information to any Federal, State, or local agency which has the authority to enforce any relevant law or to take appropriate action. Federal agencies shall keep the Commission informed to the greatest practicable extent of any action which they are taking on complaints transmitted by the Commission pursuant to this section.

"(b) The Commission shall promptly notify persons against whom any complaint has been registered of all complaints of any significance concerning them received or developed under this section unless the Commission determines that to do so is likely to prejudice or impede an action, investigation, or prosecution concerning an alleged violation of law.

"(c) (1) Each Federal agency considering any action which may substantially affect an interest of veterans shall, upon request by the Commission, notify it of any proceeding or activity at such time as public notice is given.

"(2) Each Federal agency considering any action which may substantially affect an interest of veterans shall, upon specific request by the Commission, promptly provide it—

"(A) a brief status report which shall contain a statement of the subject at issue and a summary of proposed measures concerning such subject; and

"(B) such other relevant notice and information, the provision of which would not be unreasonably burdensome to the agency and which would facilitate the Commission's timely and effective participation under section 1004(f) of this title.

"(d) Nothing in this section shall affect the authority or obligations of the Commission or any Federal agency under section 1003(b) of this title.

"§ 10006. Information disclosure

"(a) The Commission is authorized, subject only to the provisions of this section, to disclose to the public or any member thereof so much of the information subject to its control as it determines appropriate in carrying out the purposes of this chapter.

"(b) The Commission or any officer or employee of the Commission shall not disclose any information which has been obtained from a Federal agency or as a result of access to its records where such agency has specified that such information is exempted from disclosure under section 552 of title 5 or any other applicable Federal statute and should not be disclosed. If such agency has specified that information is exempted from required disclosure, but that it may be disclosed in accordance with a particular form or manner of disclosure which such agency has prescribed, the Commission shall follow such form and manner.

"(c) The Commission or any officer or employee of the Commission shall not disclose any trade secret or other confidential business information described by section 1905 of title 18 which it obtained other than pursuant to section 1003(b) of this title, except that such information may be disclosed (1) to the public only if the Commission determines it necessary to protect the rights and benefits of veterans, and (2) in a manner designed to preserve confidentiality, to duly authorized committees of the Congress, to courts and Federal agencies in representing the interests of veterans, and to other officers and employees of the Commission or other Federal officials concerned with the subject matter in issue.

"(d) In the release of information to the public, the Commission shall take all reasonable measures to assure that such information is accurate and not misleading or incomplete. If such information is inaccurate, misleading, or incomplete, the Commission shall promptly issue a retraction, take such other reasonable action to correct any error, or release significant additional information which is likely to affect the accuracy or completeness of information previously released. Where the release of information is likely to cause substantial injury to the reputation or goodwill of a person or company, or its products or services, the Commission shall notify such person or company of the information to be released and afford an opportunity for comment or injunctive relief, unless immediate release is necessary to protect the rights and benefits of veterans.

"§ 10007. Cooperation and consultation with veterans' organizations; advisory committee

"(a) In carrying out its function under this chapter, the Commission shall consult with and, to the maximum extent feasible and appropriate, utilize the services and technical expertise of Federally-chartered and other recognized and appropriate veterans' organizations and State departments of veterans' affairs. Where the Commission determines to utilize the service of any such organization, or State department, or any other appropriate organization, it is authorized to contract for, and compensate for, such services, in accordance with the provisions of section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252).

"(b) In addition to advisory committees authorized by section 10003(c) of this title, the Commission may establish such other advisory committees composed of members of or representatives proposed by veterans' organizations and other organizations as have special interests or expertise and competence in fields concerned with or relating to veterans benefits as the Commission finds would assist it in effectively carrying out its functions. In its discretion, the Commission may appoint experts and consultants to such advisory committees and request representation thereon from any Federal agency.

"§ 10008. Authorization for appropriations

"There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter and subchapter II for the fiscal year ending June 30, 1975, and the two succeeding fiscal years.

"SUBCHAPTER II—Monitoring of Veterans' Administration Operations

"§ 10101. Commission Representatives

"(a) The Commission shall appoint, subject to the requirements set forth in subsections (b) and (c) of this section, such numbers of individuals (to be known as 'Commission Representatives') as it determines are needed to provide meaningful input and feedback from all areas of the country concerning the operation of veterans programs and problems of veterans in the area to which each such Commission Representative is assigned.

"(b) At least one Commission Representative, with appropriate clerical/secretarial support, shall be assigned to each Veterans' Administration hospital, center, domiciliary residence, and independent outpatient clinic, unless the Commission finds that the anticipated workload at such a site would not justify the assignment. Where it finds that such is needed, the Commission may assign a Commission Representative to a Veterans' Administration regional office, Veterans' assistance center, or other facility.

"(c) In appointing Commission Representatives under this section, the Commission shall give preference to the appointment of qualified individuals with substantial experience as veterans service officers and to veterans of the Vietnam era. In no event shall less than one-third of all such Commission Representatives be veterans of the Vietnam era, nor shall there be any less than one such veteran serving as a Commission Representative in any one State.

"§ 10102. Function of Commission Representatives

"(a) The primary function of Commission Representatives shall be to monitor and evaluate the programs at the facility to which assigned, to review the needs of veterans in the area served by such facility, and to advise the Commission of their findings with respect to these functions, with particular emphasis on the needs of, and adequacy of programs for, veterans of the Vietnam era.

"(b) Any Commission Representative may also be directed by the Commission to survey and evaluate the programs of other Federal departments and agencies, and those of State and local agencies, in the area to which such Representative is assigned.

"(c) Any Commission Representative may also be directed by the Commission to carry out special investigative activity. In carrying out any such special investigation activity, such Representative shall, to the maximum extent feasible and appropriate, utilize the available resources of veterans' service organizations and volunteers.

"(d) Each Commission Representative, subject to rules and regulations prescribed by the Commission, shall act as an advocate for veterans who are receiving (or are entitled to receive) medical care and treatment or other benefits from the Veterans' Administration. Commission Representatives shall deal directly with appropriate Veterans' Administration officials to resolve informally grievances, misunderstandings, and complaints brought to such Representative's at-

tention, especially problems attendant upon patient institutionalization and adequacy of health care.

"§ 10103. Rules of Commission Representative operation

"The Commission shall establish rules and procedures to guide Commission Representatives in carrying out their functions. Such rules and procedures shall contain provisions directed especially to assuring that the activities of the Commission Representatives under this subchapter supplement, and do not conflict with, the established responsibilities of representatives recognized by the Administrator under section 3402 of this title.".

(b) The table of parts and chapters at the beginning of title 38, United States Code, immediately under the heading "VETERANS' BENEFITS", is amended by adding at the end thereof the following:

"VII. Overview and Evaluation of Veterans' Affairs ..... 10001."

(c) Such table is further amended by adding immediately after the table of chapters appearing under the heading "PART VI. ACQUISITION AND DISPOSITION OF PROPERTY" the following:

"PART VII. OVERVIEW AND EVALUATION OF VETERANS' AFFAIRS

"Chapter Sec.
"100. Commission on Veterans Rights ..... 10001".

(d) (1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(99) Executive Director of the Commission on Veterans' Rights."

(2) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(135) Deputy Executive Director of the Commission on Veterans' Rights.

"(136) General Counsel of the Commission on Veterans' Rights."

(e) (1) Except as provided in subsection (b) of this section, this section shall take effect ninety calendar days following the date on which this Act is enacted. The Commission on Veterans' Affairs may not intervene or otherwise participate as a matter of right in any Federal agency or Federal court proceeding which is pending on the effective date of this Act if argument has concluded or the record has been closed and all that remains before completion of such agency or court proceeding is the rendering or issuance of a decision or the promulgation of a final order or rule by such agency or court.

(2) Any of the officers provided for in this section may be appointed in the manner provided for in the amendment made by subsection (a) of this section at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office at the rates authorized for in such amendment.

At the end of the bill add the following:

SEC. 9. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality and effectiveness of the remainder of this Act and the applicability thereof to any persons and circumstances shall not be affected thereby.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1194

At the request of Mr. DOMINICK, the Senator from New Mexico (Mr. DOMENICI), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of amendment No. 1194, intended to be proposed by him, to H.R. 10710 to amend the Trade Reform Act for cooperation in locating personnel missing in action.

NOTICE OF HEARINGS ON S. 2591, THE FINANCIAL INSTITUTIONS ACT OF 1973

Mr. McINTYRE. Mr. President, I am pleased to announce that the Subcommittee on Financial Institutions will continue hearings during the week of May 13 on S. 2591, the Financial Institutions Act of 1973.

During these hearings, testimony will be received from organizations representing State regulatory agencies and various segments of the financial community. The hearings will commence each morning at 10 a.m. in room 5302, Dirksen Senate Office Building.

Anyone who wishes further information regarding these hearings should contact Mr. T. J. Oden, room 5300, Dirksen Senate Office Building, 225-7391.

NOTICE OF HEARINGS ON SENATE JOINT RESOLUTION 119 AND SENATE JOINT RESOLUTION 130

Mr. BAYH. Mr. President, the Senate Subcommittee on Constitutional Amendments is scheduling further hearings on two proposed amendments to the Constitution: Senate Joint Resolution 119, for the protection of unborn children and other persons, and Senate Joint Resolution 130, to guarantee the right of life to the unborn, the ill, the aged, or the incapacitated.

The next day of hearings will be held on Thursday, April 25 in room 2221, Dirksen Senate Office Building beginning at 10 a.m. A further day has been scheduled for Tuesday, May 7 in room 1202, Dirksen Senate Office Building beginning at 2 p.m.

Any persons wishing to submit statements for the hearing record should contact the Subcommittee on Constitutional Amendments, room 300, Russell Senate Office Building, Washington, D.C. 20510.

NOTICE OF HEARINGS ON S. 1933 AND S. 2474

Mr. WILLIAMS. Mr. President, I should like to announce that the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs will hold 3 days of hearings on S. 2474 and S. 1933. S. 2474, which I introduced with Senators BIDEN and BROOKE, deals with the Federal regulation of broker-dealers and banks engaged in the municipal securities business. S. 1933 introduced by Senator PROXMIRE concerns the authorization of national banks to underwrite and deal in certain securities issued by State and local governments.

The hearings will be held on May 6, 7, and 8 at 10 a.m. in room 5302 of the Dirksen Senate Office Building.

The subcommittee will welcome statements for inclusion in the record of hearings.

ADDITIONAL STATEMENTS

AUTO INSURANCE RATES

Mr. MONTOYA. Mr. President, it is imperative that no segment of the business community be allowed to reap excess profits as a result of actions taken to alleviate the fuel shortage. We must all share the burden equally. It is in this spirit that I am pleased to cosponsor S. 2757, a bill introduced by Senator EAGLETON to prevent windfall profits by automobile insurance companies during any period when the casualty rates of such companies are reduced as a result of official action in connection with the energy crisis. In addition, I am glad to lend my cosponsorship to another important bill introduced by Senator EAGLETON, S. 2969, to require a reduction in motor vehicle insurance premiums in the District of Columbia.

All statistics gathered to date bear out the fact that various energy conservation measures, specifically the reduced speed limits and the reduced amount of driving on the part of most people, have brought about substantial reductions in fatalities and accident rates. The Department of Transportation has released figures showing that on a nationwide basis highway fatalities decreased by approximately 23 percent during the month of January 1974, as compared to the corresponding period in January 1973. The National Safety Council notes that traffic deaths for the first 2 months of 1974 are 25 percent below what they were for the first 2 months of 1973. In addition, the District of Columbia reports that accidents are down by a total of 46 percent in the District.

Insurance companies have attempted to counter statistics such as these by claiming that it is too early to tell just what effect energy conservation measures will have. They also argue that inflation is bound to increase the cost of providing insurance coverage. Moreover the claim is made that as more people drive small cars there are likely to be more injuries and thus more insurance claims.

However, instead of getting embroiled in hypothetical arguments about future events, I think that the best position to take in this instance is the one represented by the bill which I am cosponsoring, S. 2757, which provides that effective January 1, 1974, the insurance companies would be required to give rebates to their customers in the event of windfall profits resulting from energy conservation measures. The other related measure which I wholeheartedly support provides for a 10-percent reduction in insurance rates, subject to periodic review, in the District of Columbia.

Mr. President, the recent fuel shortage has had many deleterious side effects, but one very beneficial effect of energy conservation measures has been the reduction in highway fatalities and accidents. Certainly it would be unjust to allow the insurance industry to benefit unduly from increased safety through the maintenance of excessively high rates and profits. Everyone—rather than any one segment of the business commu-

nity—should benefit from increased safety.

Mr. President, I ask unanimous consent that two press releases, one from the Department of Transportation and one from the National Safety Council, documenting the decrease in traffic fatalities and accidents this year, be printed in the RECORD.

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

DEPARTMENT OF TRANSPORTATION,
Washington, D.C., February 26, 1974.

Figures for January from the 50 States show a significant reduction nationally in the number of highway fatalities, the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) announced today. There were 853 fewer deaths last month than for the corresponding period in January 1973, a reduction of almost 23 percent.

The Federal Safety Agency attributed the reduction to lowered maximum speed limits in at least half the States, voluntary action on the part of motorists in reducing speeds, and a decrease in total driving as a result of the energy shortage.

Some of the larger States with lowered maximum speed limits showed remarkable declines in January. Pennsylvania for example, which had an estimated 217 fatalities in January 1973, had by NHTSA's report only 109 last month—a drop of 50 percent. New Jersey was down 42 percent with 67 deaths for January 1974 compared to 117 in January 1973. New York, which showed a 46 percent reduction for December, had 151 fatalities in January 1974 as compared to 237 a year earlier—a 36 percent decline. Florida had a 25 percent reduction with 183 deaths compared to 244 fatalities in January 1973.

Dr. James B. Gregory, NHTSA Administrator, said he is encouraged by the reduction in highway deaths. "No one is happy with the stresses brought about by the energy shortage, but the accompanying effects on highway safety should remind everyone that something can be done to reduce the slaughter that has grown over the years.

"With this increased awareness, the American public, I believe, can maintain this reduction in fatalities and can cut into the toll even more by buckling their safety belts and working effectively to keep drunk drivers off our streets and highways."

The NHTSA earlier reported a 15–20 percent drop in fatalities among those States which had reduced their speed limits in November and an overall reduction of 25 percent in the 18 States which had lower speed limits in December 1973, as compared to the corresponding months in 1972.

NATIONAL SAFETY COUNCIL,
Chicago, Ill.

LOWER SPEEDS CUT TRAFFIC DEATHS, NATIONAL SAFETY COUNCIL PRESIDENT SAYS

CHICAGO.—Lower speeds brought on by the energy crisis are playing a powerful role in reducing the number of traffic deaths on our highways, National Safety Council President Vincent Tofany said.

"Last February's traffic fatality dropped 25 per cent from the fatality total recorded for February, 1973—a savings of 880 lives," Tofany said. "The number of traffic deaths recorded for January, 1974, also was down 25 per cent from the number of deaths recorded for January, 1973," he added, "which means traffic deaths for the first two months of 1974 are 25 per cent below what they were for the first two months of 1973."

In the first two months of 1973, according to Tofany, 7,560 persons were killed in traffic accidents. By comparison, he said, in the first two months of 1974, 5,680 persons were killed in traffic accidents.

"Certainly some of this reduction comes from a reduced number of miles driven," Tofany continued, "but the preliminary information we have does not justify the assertion that reduced driving is the dominant cause for the drop in fatalities. A large part of the drop seems to be due to a general, and largely voluntary, reduction in speed," he said.

According to Tofany, NSC traffic statistics for tunrpikes show a 13 per cent drop in turnpike travel in January, 1974, as compared with January, 1973. Turnpike fatalities, however, dropped 67 per cent in the same period, he said.

"This same trend, showing a reduction in traffic fatalities far out of proportion with any reduction in travel, also was present in our turnpike statistics for last November and December, the first two months the American people really felt the energy crisis," Tofany said.

The safety leader said that November, 1973, turnpike mileage increased two per cent over the mileage recorded for November, 1972. Turnpike traffic deaths for November, 1973, however, dropped 52 per cent below the November, 1972, level, he said.

Turnpike mileage dropped 12 per cent in December, 1973, compared with the mileage recorded for December, 1972, according to Tofany. But turnpike deaths for December, 1973, dropped 65 per cent as compared with December, 1972, he added.

"Now that the energy crisis appears to be easing," Tofany said, "there will be calls to raise speed limits. In light of the apparent safety advantage of lower speeds," he continued, "we advocate that no speed increases be made without careful consideration of their possible safety effects."

According to the safety council, 2,660 traffic fatalities were recorded for February, 1974, while 3,540 traffic fatalities were recorded for February, 1973.

Disabling injuries and traffic accident costs also were down in the first two months of 1974 as compared with first two months of 1973. According to the council, about 210,000 disabling injuries occurred during the first two months of 1974, while about 250,000 disabling injuries occurred during the same period in 1973. The cost of the traffic deaths and injuries to the nation's economy in the first two months of 1974 was estimated by the council at $1.9 billion, while costs for the same period in 1973 were estimated at $2.1 billion.

DOMENICI SUPPORTS WHITE HOUSE CONFERENCE ON EDUCATION

Mr. DOMENICI. Mr. President, our educational system has undergone many criticisms, evaluations, and changes since its beginnings in the 18th century. But there has been no time in our educational system's history which has been more dynamic and electric than right now. The word "education" has taken on a multifaceted meaning. Today the evaluation of our national educational system encompasses such issues as school finance, preschool education, child nutrition, child care, equal educational opportunity for the handicapped, disadvantaged and bilingual, postsecondary education, career education, vocational education, technical education, guidance and counseling, teacher education, elementary education, higher education, and adult education.

With the growth of our country as a Nation of many peoples and with the ever expanding role of technology in our society, our system of education is confronted with what can be an overwhelming task of preparing America's men and women for a productive life as worker, citizen, consumer, thinker and individual.

These challenges face all of the United States, not just a few geographical areas. The entire country needs to work together to see that these challenges are met. The Senate Committee on Labor and Public Welfare recently reported out S. 1539, the Elementary and Secondary Education Amendments. Among other provisions, these amendments also call for a White House Conference on Education. The object of this conference is seen as bringing together people from various backgrounds to assess, describe and suggest changes for the total educational structure. At this time, many of our educational programs are administered by local educational agencies with guidance and suggestions from the State educational agencies. Each State has its own educational priorities and problems; and many States have convened their own conferences to oversee their educational needs. But now is the time for us to work together as a Nation. We must mobilize representatives from all levels of education to discuss the future of our total educational structure. Evaluation, research, and demonstration endeavors of the many individual school districts and research institutes must come together and present this country with a total picture of the present educational situation and suggestions for future actions in this area.

Mr. President, as you know, the Federal Government has been very involved with this country's education system—and rightly so. But, at the same time, I have been concerned with the lack of a regular evaluation of what, I believe, is the Federal Government's role in aiding States in directing their activities toward high national ideals of quality education. Instead of finding opportunities to do this, we in Congress spend much of our time quibbling about the application of new census statistics to new formulas and about supplemental appropriation bills that help school districts with too little, too late. We do not spend enough time on what is really needed. I believe this provision will furnish an opportunity to look at the whole education picture instead of the past pick-and-choose, hit-and-miss approach to quality education.

These are some of the reasons I am speaking in strong support of the White House Conference on Education provision of S. 1539. We can no longer function in our own little isolated worlds. We must start to see the problems of education in a broad national perspective. We must begin now before our educational programs become unwieldy monsters. If we are to provide our children and our men and women with the kind of life preparation they need as individuals in this society, we must work together as a united whole. I believe a White House

Conference on Education can start us on this necessary road.

THE COST OF LIVING ACT

Mr. MUSKIE. Mr. President, I ask unanimous consent that a cosponsorship statement of my distinguished colleague from Florida, Senator CHILES, on S. 3352 be printed in the RECORD.

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

STATEMENT BY SENATOR CHILES

Mr. President, on April 30th price control authority will expire and the Cost of Living Council will cease to exist. This will happen at a time when inflation is at its highest level in twenty-three years. It is senseless that we should be dismantling our government machinery and strip away the policy instruments which are designed to deal with the inflation when there is so much inflationary pressure building in the economy.

On April 4th I made a floor speech outlining the approach I think would be most desirable. I called for stand-by authority on price controls to allow them to be used if and when that becomes necessary in crucial commodities. I called for some specific "jaw boning" authority for the government to have the ability to keep labor and management talking to each other until agreements are reached which are in the public interest. And I called for authority for the Cost of Living Council to be able to enforce commitments made by producers as price controls are lifted. I think these are necessary elements to deal with inflation as we phase out price controls. I will continue to argue for these.

On April 11th Senator Muskie introduced legislation (S. 3352) which will extend the life of the Cost of Living Council for one year and empower it with monitoring authority. Under the Cost of Living Act, the Council's authority to impose or reimpose price controls will expire on April 30th but the Council would continue and have as its function the review of prices, supplies, and economic activity to keep the President and the Congress informed on how the economy is working without price controls.

I endorse the Cost of Living Act but along with the Senator from Maine I think that this is the minimum that we can do and that we should indeed go further than this if we want to be effective in restoring price stability to our economy. Just because we are fed up with price controls doesn't mean that we should abandon them. But as a minimum we need to have a central focus for keeping an inflation alert to keep public officials and the public at large informed on what is happening. Inflation will not disappear just because we don't look at it. I urge all my colleagues to support this bill as the very least that we should responsibly do to maintain the purchasing power of the public.

SECRETARY KISSINGER'S ADDRESS TO THE ORGANIZATION OF AMERICAN STATES

Mr. JAVITS. Mr. President, after extensive meetings with the foreign ministers of the Latin American countries and Members of Congress in Washington, which I attended, and the communique of which is appended, Secretary of State Kissinger addressed the General Assembly of the Organization of American States in Atlanta, Ga., the opening session of which I also attended.

Here he put forward the succeessor policy to the "good neighbor' of the 1930's as the new policy among equals of the "good partner."

In my judgment, the Secretary's address is a most significant one: a deep and far reaching development has occurred in Latin America. Latin America is industrializing and is molding a strong sense of national and regional self identity. This fact, taken in combination with the economic and political stresses the world is facing today makes the new dialog between the United States and our Latin American neighbors imperative. Secretary Kissinger addresses these issues earnestly and cogently. I ask unanimous consent that his address to the General Assembly of the Organization of American States and the communique of the foreign ministers' meeting in Washington be inserted in the RECORD.

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

ADDRESS BY THE HONORABLE HENRY A. KISSINGER, SECRETARY OF STATE, BEFORE THE GENERAL ASSEMBLY OF THE ORGANIZATION OF AMERICAN STATES, ATLANTA, GA., APRIL 20, 1974

As this General Assembly of the Organization of American States convenes, a special session of the General Assembly of the United Nations is underway in New York.

This is more than a coincidence. In this continent as in the world, our nations face, together, a broad agenda of interdependence. Instantaneous communications, global economics, and weapons of vast destructiveness have thrust mankind into a proximity which transforms world community from a slogan into a necessity. Our problems are unprecedented, in type and scale. But our purpose is age-old: to realize man's eternal aspiration for a life of peace, well-being, dignity and justice.

The challenge before the Americas is to define *our* place in this global quest. What should be this Hemisphere's purposes in the modern world? How can the distinctive and special bonds that have united us, and that cooperation among the nations assembled are reflected in this Organization, foster here and all of the nations of the world?

Montaigne once wrote:

"The archer must first know what he is aiming at and then set his hand, his bow, his strength, his arrow and his movements for that goal. Our plans go astray because they have no direction."

The Americas have identified their target: to make our mutual dependence define a program for effective cooperation.

We have come a long way together in the past six months.

We we began our dialogue in New York last October, many feared that we might repeat the familiar cycle of new slogans followed by renewed neglect. We asked of each other: Could we make our diversity a source of strength, drawing on the richness of our material and spiritual heritage? Could we define together a concrete and realistic role for the United States to support the development efforts of our neighbors? Could the nations of the Hemisphere fashion a vision of the world as it is so that we could move together towards the achievement of common goals while retaining individual dignity and uniqueness?

In Bogota last November, the nations of Latin America and the Caribbean took the initiative in providing an answer and proposed an agenda for action. In Mexico City in February, we came together again and launched a new process of collaboration based on this agenda and inspired by a new attitude—the spirit of Tlatelolco. This week in Washington, we reaffirmed our mutual commitment and moved toward concrete achievements.

What is the spirit of Tlatelolco that has given such impetus to our current efforts?

On one level, it is the enduring recognition that our nations are joined by unique and special bonds—of geography, tradition, self-interest and common values. For all our differences, the nations of the Americas share a common origin, a history of mutual support and a common devotion to national independence, social progress and human dignity. For centuries we have seen ourselves as a beacon to the world, offering mankind the hope of leaving behind its eternal tragedies and achieving its enduring dreams. For decades we have been linked in an Inter-American System that has been a vehicle for joint action.

But on a deeper level, the spirit of Tlatelolco defines something new and vital, of importance not only in the Hemisphere but across the oceans. For most of our shared history the United States alone determined the pattern and set the pace of our cooperation. With our great material and technical resources we were often tempted to do for others what we thought was best for them.

That attitude no longer shapes our relationships.

We in the United States have come to recognize that a revolution has taken place in Latin America. Industrialization and modern communications have transformed economic and social life. A new generation is molding strengthened institutions. A sense of national and regional identity has acquired new force. The commitment to modernization has become fundamental. Brazil's gross national product approachs that of Japan less than two decades ago. The countries of the Andean Group have begun a major collaborative effort to hasten development. Argentina and Mexico are industrializing rapidly. And the newly independent countries of the English-speaking Caribbean have brought different perspectives and traditions, a fresh vitality, and a new charm to hemispheric relations.

The United States, too, has changed enormously in the last decade. We have learned that peace cannot be achieved by our efforts alone, and that development is far more than simply an economic problem. Through years of anguish and trial we have found that the United States cannot remake the world, and that neither peace nor development is achievable unless it engages the effort and commitment of other nations.

This is why our new dialogue is not a concession by the United States, but a necessity for us all. We convene as equals, on the basis of mutual respect—each recognizing that our special relationship can be preserved only if we transform it to meet the new conditions of our time and the aspirations of our peoples.

In the 19th century, the United States declared what those outside the Hemisphere should not do within it. In the 1930s we proclaimed what we would no longer do within it—the policy of the Good Neighbor. In 1974 in Mexico City, in Washington and now in Atlanta we jointly proclaim our cooperative actions—the policy of the Good Partner.

Our new dialogue has already been marked by substantial progress.

We have committed ourselves to a cooperative development effort, and to the creation of a system of collective economic security.

We have agreed to devote special attention to the needs of the poorest countries of the Hemisphere.

We have agreed to consult in order to develop common positions, so far as possible, in major international negotiations, especially on economic issues.

We have established a working group to develop principles for the conduct of transnational enterprises.

We have set up a Working Group on Science and the Transfer of Technology to strengthen our cooperation in the process of industrialization.

We have decided on multilateral financial

institutions to deal with those natural disasters and economic crises that our countries cannot deal with alone.

Above all, we agreed in the Declaration of Tlatelolco that "interdependence has become a physical and moral imperative, and that a new, vigorous spirit of Inter-American solidarity is therefore essential."

For its part, the United States knows that if the answers to the great dialogue between the developed and the developing countries cannot be found in the Western Hemisphere they may not be found at all. We seek a Hemisphere lifted by progress, not torn by divisions. We are committed to shaping our action to accelerate Latin America's efforts to fulfill the aspirations of its peoples. We will do our utmost to expand Latin American access to US markets, maintain our assistance levels, and consult on political and economic issues of common concern. We have moved to resolve old disputes with Peru, Panama and Mexico that have blocked progress along our common road.

Together we must now ask ourselves: what are our ultimate goals? We in the Americas have always believed that our efforts and our achievements had relevance beyond our shores. Thus it is clear that our special relationship cannot mean the formation of an exclusive bloc. The world has already seen enough of pressure groups, exclusive spheres and discriminatory arrangements.

A bloc implies a rigidity that would deny our different perspectives and constrain our reach in different directions. Some of us have global responsibilities, some feel affinities with the third world; developing ties with many regions attracts us all. We seek not a common front against others, but rather a common effort with others toward the global cooperation which is dictated by political and economic realities.

A healthy special relationship is not a bloc. Working together the Western Hemisphere can lead the world toward solutions to those basic problems of the contemporary period that are now being discussed in New York. Rejecting autarky, respecting diversity, but in a spirit of solidarity—we in the Americas can both promote our common objectives and strengthen the fabric of global cooperation.

THE INTER-AMERICAN AGENDA

In this context of our wider purposes, let me outline for your consideration some principles and tasks to guide our common efforts.

Inter-American solidarity must be rooted in a free association of independent peoples. The spirit of dialogue—of give and take—that has so enriched our meetings in Mexico and Washington must be perpetuated. For its part, the United States pledges that it will not seek to impose its political preferences, and that it will not intervene in the domestic affairs of its Western Hemisphere neighbors.

Effective collaboration requires continuing and close consultation. The United States understands that its global policies and actions can have a major impact upon the other nations of this Hemisphere. Therefore we have pledged ourselves to a constant and intimate process of consultation.

We look forward to periodic meetings of America's Foreign Ministers to discuss issues of mutual concern in the Americas and in the world. We will consult closely with you in the global monetary and trade talks, and in other international negotiations, including the Law of the Sea Conference. We do not expect an identity of views. We do believe that better comprehension and sensitivity to one another's positions will benefit us all.

Our relationship must assure progress and decent life for all our peoples. The ultimate test of our relations will be to translate our aspirations into concrete programs, especially in the decisive field of development.

Earlier this week before the Special Session of the United Nations I listed six principles which economic reality and our common humanity dictate should be the guiding principles for international action to spur development:

We need to expand the supply of energy at an equitable price;

We need to free the world from the cycle of raw material shortages and surpluses;

We need to achieve a balance between food production and food demand;

We need to extend special consideration to the poorest nations;

We need to accelerate the transfer of science and technology from developed to developing nations;

We need to preserve and enlarge a global trade, monetary and investment system which will sustain industrial civilization and stimulate its growth.

The Hemisphere has a vital stake in the world community's response to these challenges. Some of these problems—such as an inventory of resources in relation to needs—are best carried out on a global basis. But on many of them the nations of this Hemisphere can provide leadership and inspiration and advance the welfare of their peoples through joint actions.

In the field of energy, the Hemisphere uniquely emcompasses both producers and consumers. The United States is ready to collaborate with its Hemisphere partners in a major way, both bilaterally and multilaterally.

The Working Group on Science and the Transfer of Technology established by the Foreign Ministers two days ago in Washington can be charged with setting up programs for sharing information on energy conservation and for pooling our efforts to expand available supplies, to develop alternative sources of conventional fuels, and to encourage the discovery of new and renewable energy sources. The Latin American Energy Organization (OLADE) and the United Nations Economic Commission for Latin America (ECLA) provide additional mechanisms for cooperation.

Finally, the United States is prepared to link its technology with the resources and capital of the Hemisphere's oil producers to help them expand their production and diversify their economies.

The Western Hemisphere has a special role to play in overcoming the world food shortage. This continent, even as it is scarred by malnutrition and hunger, has vast agricultural potential.

President Nixon is asking the Congress to raise our assistance to food production programs in the Americas by 50%—from $86 million to $128 million. We have, as well, lifted our own domestic production restrictions.

The shortage of fertilizer and the steep rise in its price are a problem of particular urgency. The United States will give high priority to linking our technological skills with the raw material and capital of oil producing countries to encourage the development of new fertilizer capacity.

In a collective effort, I propose that we cooperate in a program to increase food production in this Hemisphere substantially by the end of this decade. This program should encompass research, the application of science and technology, and the intensified application of foreign and domestic resources:

As an initial step we should ask the Inter-American Economic and Social Council to help focus our efforts to increase production and productivity. The Working Group on Science and the Transfer of Technology should explore new ways to increase agricultural productivity, especially in the continent's vast, underutilized tropical zones.

A comprehensive hemispheric agricultural survey would be an important contribution to the success of the World Food Conference.

Food processing is another high priority field for cooperation and innovation.

Only this week the Foreign Ministers of the Americas pledged to give special attention to the problems of the least developed among us. To this end, the Inter-American Development Bank should adapt its lending policies to ease the shock of rising energy prices on the poorest nations in the Hemisphere. We welcome the decision of Venezuela to assist the Bank in this task, including concessional lending assistance to those who require it most.

The United States, as the Hemisphere's richest nation, also has a particular obligation. We will urge our Congress to maintain our assistance levels to the Hemisphere. It is an expression of our special relationship that United States bilateral and multilateral aid to the Hemisphere is larger on a per capita basis than to any other region of the globe. In accordance with the recommendations of the recent Washington Conference, we are now examining whether Latin America's share can be further increased.

The transfer of science and technology may be an even more important bottleneck in the development effort than capital. The United States, as a technologically advanced nation, recognizes a special responsibility in this regard. We believe that normally private investment is the most efficient vehicle for the large scale transfer of these resources, but governments can facilitate the transfer of advanced technology to stimulate balanced development.

The Working Group on Science and the Transfer of Technology established by the Washington Conference will seek to overcome obstacles to the flow and use of productive technology. In addition to those I have already mentioned relating to energy and agriculture, its tasks should encompass:

Improving the dissemination of information on available technologies, including managerial and engineering skills;

Spurring the search for new technologies in such areas as marine sciences and labor intensive industry; and

Identifying how to adapt technology most effectively to different national circumstances and industries.

In addition to these projects, all of which require improved cooperation among governments and the producers and users of technology, current OAS programs aimed at strengthening university and basic research and training institutions in Latin America and the Caribbean should continue to receive the wholehearted support of this Assembly.

The Americas are in a position to participate effectively and to make an important contribution to the reform of the international systems that govern trade, monetary and investment relations. The United States will support such efforts.

Trade is critical in the development process. The United States is strongly committed to a system of generalized tariff preferences and once this legislation is enacted, we will consult closely with our partners in this Hemisphere on how it can be made most beneficial to your needs. Despite the uncertainties arising from the energy crisis, we will do our utmost to avoid new restrictions on Latin America's access to our markets.

The United States recognizes that trade within this Hemisphere depends significantly on global patterns. Trade expansion worldwide is one of our long-standing objectives. Mutual support in the forthcoming Multilateral Trade Negotations can help us overcome many bilateral trade problems within the Hemisphere.

In the spirit of Tlatelolco, the United States is prepared to adjust its position on specific issues in the MTN to take account of Latin American objectives. As a first step, the President's Special Trade Representative, Ambassador Eberle, departs today to begin bilateral consultations with many of your governments. Similar efforts are planned through organs of the OAS and in Geneva.

Private investment is crucial to development. At times it has also been a source of friction. At the Washington Foreign Min-

isters' Conference we agreed to join with you in a study commission which would prepare guidelines applicable to the conduct of transitional corporations. We cannot afford to let our political relations and our economic cooperation be distorted by commercial quarrels.

Finally, a modern Inter-American System requires that the Treaty of Rio and the OAS be strengthened and adjusted to new conditions. The Inter-Amercan System is the oldest major association of nation states. It has pioneered the concept of international organization and collective security. It has been in the forefront of the development of international law. It has championed the principles of self-determination and non-intervention. It has functioned productively for more than seventy years because it has been adaptable. Today, as we contemplate past experience and future needs, we see that further modification is necessary.

Let me outline the approach of the United States.

First, development is impossible without security. The Rio Treaty has helped keep this Hemisphere largely free of turmoil and conflict. We should modernize it, in keeping with our times, but we should preserve its essentials.

Second, we need to reform the OAS so that it becomes a more effective instrument for hemispheric cooperation. It is overly rigid in its structures; unnecessarily formal in its procedures, and insufficiently broad in its membership. To remedy these weaknesses, we propose the following:

All major OAS meetings, including the General Assembly, should be made less formal;

The Permanent Council should be recognized as the central executive body of the OAS;

OAS membership should be open to all the nations who have attended the recent Foreign Ministers conferences; and

The OAS should be restructured to become a more effective instrument for our economic consultations.

One of our principal tasks should be to bring about institutions to implement the decisions of the new dialogue.

BROADENING THE DIALOGUE

Our dialogue will remain formal if confined to diplomats or officials. It must involve our peoples, catching their imagination and liberating their abilities. The efforts on which we are embarked require all the human and intellectual resources of our Continent.

To this end, the United States will see to it that its cultural and educational exchange programs make a more important contribution to cooperation as well as to mutual understanding. We will:

Increase our emphasis on professional exchanges designed to link comparable institutions in the United States and Latin America;

Encourage seminars and joint research on such topics as urbanization, protection of the environment, and other problems common to all our countries; and

Stimulate awareness of the extraordinary cultural richness of the Americas by promoting tourism, exhibitions, and other activities to expand our awareness of each other and our appreciation of our common humanity.

CONCLUSION

Mr. Secretary General, Ministers, Delegates:

The warmth of the welcome you have received here testifies to the friendship of the American people for our neighbors to the South. The ultimate hemispheric solidarity comes from the heart, not solely from the mind. It is rooted in history and inspired by our common traditions.

As our Mexican colleague said at Tlatelolco, we of the Americas have advanced from political speeches to political dialogue, and now to political consultation.

This must be the design for our new purpose, for great challenges lie before us. We hear the demand of our peoples for justice and dignity; we know their yearning for security and progress. We cannot give them less, for it is their birthright.

In 1900 Jose Enrique Rodo wrote his classic *Ariel*. He viewed the two Americans at the turn of the century as in fundamental opposition. Yet he foresaw another kind of relationship eventually emerging. He wrote:

"To the extent that we can already distinguish a higher form of cooperation as the basis of a distant future, we can see that it will come not as a result of unilateral formulas, but through the reciprocal influence and skillful harmonization of those attributes, which give our different peoples their glory."

Let us here choose such a future. Let us realize the glory of our peoples by working together for a better life for our children. In so doing we shall realize the final glory and common destiny of the New World.

COMMUNIQUE

(Meeting of Foreign Ministers, Washington, D.C., April 18, 1974)

1. Accepting the invitation of the United States Secretary of State, the Foreign Ministers of Latin America met April 17–18 in Washington to resume the dialogue begun at the Conference of Tlatelolco in Mexico eight weeks ago. Attending this meeting were the Foreign Ministers of Argentina, the Bahamas, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, the United States of America, Uruguay and Venezuela, and the representative of the Foreign Minister of Guatemala.

2. The meeting of Foreign Ministers continued in the atmosphere of cordiality and openness which characterized the Conference of Tlatelolco. The Foreign Ministers reiterated their conviction that these meetings contribute to greater inter-American cooperation and solidarity. The topics discussed were: Structure of International Trade and the Monetary System; Cooperation for Development; Transnational Enterprises; Solution of the Question of the Panama Canal; Coercive Measures of an Economic Nature; and Transfers of Technology.

3. The Foreign Ministers of the Latin American countries presented their views and positions on the several topics covered by the agenda. The Secretary of State of the United States responded, stating United States policy on the respective subjects and expressing the intention and desire of the United States to cooperate effectively in the integral development of the Latin American countries.

4. On the subject of trade, the Foreign Ministers of Latin America attached special importance to the standstill commitment made by the United States in Caracas in February 1970 and reaffirmed by Secretary Kissinger at Tlatelolco, and to the urgency of eliminating restrictions on access to the United States market for products of special interest to Latin America. They stressed that, in order to improve trade relations and promote new flows of trade from Latin America to the United States, as a minimum, no new import restrictions should be applied and existing import restrictions should not be expanded.

5. The Secretary of State recognized the importance of the United States market for the economies of Latin America. In the new spirit growing out of the Conference of Tlatelolco, he expressed his support of Latin America's aspirations in the trade field. In particular, he stressed the intention of his Government to refrain to the extent possible from establishing new trade restrictions. He reiterated the interest of his Government in achieving enactment of the proposed Trade Reform Act which would authorize generalized preferences, including in them the products of interest to Latin America, and in further liberalizing the access of Latin American products to the United States market. Similarly, he reaffirmed the commitments of his Government under resolution REM 1/70, and especially stated his agreement to hold consultations with Latin America on the inclusion in the GSP products of special interest for the area before making final decisions. Secretary Kissinger also expressed his Government's intention to support the effective participation of Latin America in reform of the international monetary system.

6. The Secretary of State of the United States considered favorably the views held by Latin America in the matter of Multilateral Trade Negotiations as regards nonreciprocity, differentiated and most favored treatment of the Generalized System of Preferences toward the developing countries and indicated his agreement to hold consultations with a view to the harmonization of positions on this subject.

The Foreign Ministers of the Latin American countries noted with satisfaction the fact that the Special Representative of the President of the United States for Trade Negotiations is initiating extensive bilateral consultations with the countries of Latin America to promote the achievement of these objectives.

7. The Foreign Ministers emphasized the importance of hemispheric cooperation in the field of economic development and the establishment of an international system of collective economic security for development. They stressed the importance of increasing the volume of real resource transfers to Latin America. The Ministers of Foreign Affairs recognize the importance of the policy of export diversification for the developing countries of the region and believe that this policy should be supported as an essential aspect of the progress of Latin America.

8. The Foreign Ministers stressed the need to provide preferential attention to the less developed countries of the region, especially the land-locked countries and those of insufficient internal market. They expressed their conviction concerning the importance of concessionary loans for the financing of enterprises and projects that are fundamental to the economic and social development process in those countries. They furthermore agreed on the usefulness of multilateral financial mechanisms to provide help in cases of emergency with which they are unable to cope by themselves.

9. The Foreign Ministers discussed the problems of economic coercion and the desirability of their elimination from relations among the countries of the Americas which would contribute in a positive manner to a more authentic spirit of cooperation. The Foreign Ministers of Latin America also expressed concern over proposals that would tend to restrict the access of products of developing countries to the United States market.

10. The Foreign Ministers of Latin America reiterated in its entirety the Declaration adopted in Bogota at the "Conference of Chancellors of Latin America for Continental Cooperation" as regards the solution of the Panama Canal question and reaffirmed it without change during the course of the new dialogue begun at the Conference of Tlatelolco.

The Foreign Ministers reiterated their confidence that the bilateral negotiations presently in progress between the governments of Panama and the United States would continue in a positive tone and conclude as soon as possible with satisfactory results in conformity with the spirit of the new dialogue.

11. The Foreign Ministers decided to estab-

lish a Working Group, consisting of governmental representatives from all of the participating states, with the mandate to prepare for submission to the consideration of the next meeting, a document that would contain principles to be applicable to transnational enterprises. The Working Group will meet at least two months prior to the date on which the Conference of Buenos Aires will convene. In the preparation of the document, the Working Group should bear in mind the Report that the United Nations Organization has prepared on the subject, as well as those that are emanating from other international forums.

12. The Foreign Ministers, recognizing the importance of technology in social and economic development, agreed to convene a Working Group of Governmental representatives to study the possibility of creating a Committee on Science and the Transfer of Technology, that would have as its objective matching scientific capability with practical needs, and overcoming obstacles to the flow and use of technology in the industrialization process. For this purpose, and at the earliest possible moment, the members of that Working Group will be designated and requested to submit their report within a period of not more than six months. Without prejudice to the foregoing, the United States and Latin America will continue supporting and encouraging the existing technological development programs, especially the OAS Inter-American Committee on Science and Technology. Their efforts must be coordinated in order to avoid duplication of programs.

13. In approving this communique, the Foreign Ministers reaffirmed the value and promise of the new dialogue in inter-American relations. They believe that their meeting just concluded in Washington has given additional impulse to achievement of progress on matters of common concern.

14. The Foreign Ministers agreed to meet again in Buenos Aires in March 1975.

ARMS REDUCTION, DÉTENTE AND SALT

Mr. MANSFIELD. Mr. President, as Senator JACKSON said in his address of April 22 to the Overseas Press Club:

The issue facing us is not whether we want a détente, but how to achieve a real détente that will produce results favorable to a more peaceful world.

We are now negotiating with the Soviets in SALT II, and the outcome of these negotiations can decisively affect the real meaning détente will have. I believe it is of the utmost importance that SALT II follow a course that is consistent with the national security of the United States and the prospects for a SALT II treaty based on United States-Soviet equality.

In this spirit, Senator JACKSON has set forth a U.S. SALT proposal to stabilize the strategic balance through substantial reductions in the strategic forces of both the United States and the Soviet Union. As he said:

It is time for serious arms reductions by both sides—a stabilizing disarmament.

I wish to bring to the attention of my colleagues the full text of Senator JACKSON's constructive and statesmanlike address. I urge the widest reading of his remarks. If agreed to, Senator JACKSON's program would mark an historic turning point in East-West relations, and could dramatically increase the confidence of all the world's people in the prospects for a cooperative and stable peace.

I ask unanimous consent that the full text of Senator JACKSON's address be printed in the RECORD.

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

DÉTENTE AND SALT

(By Senator HENRY M. JACKSON)

In recent years, and especially in recent months, the foreign policy of the Nixon Administration has been centered on the development of a relationship between East and West which they have called detente. No matter how hard or in which direction it has been punched—in the Middle East, in the SALT negotiations, on matters of human rights—the foreign policy of the Administration has revolved, like a tether ball, around the pole of that detente.

The detente has gone from a dream to an incantation without acquiring a definition along the way. And we have been left without a clear sense of where we are going or, for that matter, a common understanding of where we have been.

In its most fundamental sense detente must mean a relaxation of tensions accompanied by an effort to achieve mutual accommodation through the negotiating process. Defined in this manner, as a process of negotiation, it has the broad support of the American people. But like any process, the process of detente must be judged by the substantive results of the negotiations themselves and by the actual behavior that follows after agreements are negotiated.

Thus the issue facing us is not whether we want a detente, but how to achieve a real detente that will produce results favorable to a more peaceful world.

The centerpiece of the 1972 Moscow summit and the first test of the product of detente was the treaty on anti-ballistic missiles and the interim agreement on strategic offensive weapons—SALT I. I had considerable misgivings about the SALT I outcome, especially the interim agreement. The military advantage that the interim agreement conferred on the Soviets was, in my judgment, an inauspicious beginning.

Now we are engaged in SALT II; and it is this set of negotiations, perhaps more than any other, that will determine what real meaning detente will have. I welcome this opportunity to share with you a proposal that could stabilize the strategic balance through substantial reductions in the strategic forces of both the United States and the Soviet Union. In the course of my remarks tonight, which are directed to the SALT II negotiations, I have tried to develop a new direction in the effort to bring strategic arms under control—a direction based on the search for the sort of wide-ranging disarmament that would do much to bring us closer to a genuine detente and a more peaceful world.

In recent months we have seen the development by the Soviet Union of a significant number of new weapon systems incorporating an impressive range of new and costly technology. Not only have the Soviets achieved a genuine MIRV capability, but they have done so by developing two quite distinct MIRV technologies. They have tested a whole new generation of intercontinental ballistic missiles, land and sea based, incorporating new technologies as well as new launch techniques. They have developed a mobile, land-based ICBM. They have moved to increase by a very substantial factor the throw weight of their missile forces despite the fact that they already enjoy a threefold advantage in this area. These developments, all of which have come to light since the SALT interim agreement which was supposed to limit offensive weapons, have, individually and in combination, added significantly to the offensive potential of the Soviet missile forces.

In assessing the significance of these developments, all of which are consistent with the often ambiguous terms of the SALT interim agreement, it is necessary to digress for a moment to consider the rationale by which the interim agreement was defended.

The numerical disadvantage into which the United States was frozen by the SALT I interim agreement was held by some to be effectively offset by our technological superiority. The most obvious American technological advantage—obvious in part because of the frequency with which Dr. Kissinger reiterated it—lay in the fact that we had achieved a MIRV capability and the Soviet Union had not. Today our monopoly in MIRV technology has vanished like last year's snow and the lead in this area that we still possess by virtue of our earlier development of MIRVs can be expected to diminish rapidly as time goes on. This is neither novel nor surprising. In the long run—made longer if we find ourselves forced into a technological arms race and shorter if we do not—technology tends to even out. That is the history of technology; and it is, in particular, the history of military technology. Given the numbers and throw weights agreed to in the SALT I interim agreement, under which the Soviets enjoy a protected advantage, technological equality will mean Soviet superiority in strategic weapons.

In the final analysis, an arms control agreement will not be stable if it freezes for one side an advantage in quantity while the other has to rely on an edge in quality that it cannot maintain. In the interim agreement we agreed to inferior numbers but the Soviets did not agree to inferior technology. We should never have presumed—I, for one, did not—that they would fail to seek the combination of superior numbers and comparable technology that add up to overall superiority; and this is precisely the direction that they have chosen.

In the current SALT II negotiations the Soviets are seeking to consolidate the advantage they obtained in the interim agreement while pressing for equality in technology. Again and again when the interim agreement was before the Senate I warned that this would be the Soviet strategy at SALT II. My amendment to the authorization for the interim agreement placed the Congress and the Administration on record on this issue by insisting that the interim agreement was not an acceptable basis for a SALT II treaty.

Now, with negotiations underway, we find that, just as expected, the Soviets have actually hardened their position. Far from viewing SALT II as an occasion to search for the sort of stable strategic balance that can result only from equality, they are insisting on a SALT II arrangement that would widen and deepen their strategic margin still further.

The response of the Administration to this situation has been disappointing in the extreme. For rather than concentrating on the design and presentation of an arms control proposal that could form the basis for a long-term stabilization of the strategic balance, the Administration has concentrated on quick-fix, short term proposals that can be readied in time for the forthcoming June summit meeting in Moscow.

In their desire to preserve the impression of momentum in the SALT negotiations, the Administration has abandoned its previous conviction that the essential purpose of a follow-on agreement should be to rectify the imbalance of SALT I. In their haste to meet an arbitrary and politically expedient self-imposed June deadline, the Administration has now begun to entertain Soviet proposals which are inimical to the national security of

the United States and to the prospects for a SALT II treaty based on U.S.-Soviet equality.

Kept on such a course, SALT II is doomed to fail in the supreme mission of reducing the risk of mutual destruction. Indeed, instead of putting a damper on the arms race, such a failure would add fuel to the fire.

Given this situation, I am persuaded the time is ripe for the United States to put forward a bold and imaginative proposal for serious disarmament—a proposal that will test uncertain Soviet intentions by inviting them to join with us in concluding a far-reaching agreement to bring about a measure of stability in the nuclear balance at sharply reduced levels of strategic forces.

Instead of arms limitation agreements that do not limit, it is time for serious arms reductions by both sides—a stabilizing disarmament.

In outlining my proposal it is useful to begin by recalling the numbers agreed to under the terms of the SALT I interim agreement, according to which the United States may have no more than 1,054 intercontinental ballistic missiles. This force consists principally of Minuteman missiles that are termed "light" (in contrast to "heavy") under the definitions worked out in conjunction with the interim agreement. For their part, the Soviets are permitted 1,618 intercontinental ballistic missiles of which approximately 1,300 are of the "light" variety. The other 300 Soviet ICBMs are "heavy"—so heavy, in fact, that these 300 alone carry as much "throw weight" as the entire permitted U.S. force of 1,000 Minuteman missiles. With respect to the Soviet missile force the terms "light" and "heavy" are misleading because the missile that the Soviets apparently intend to deploy as a substitute in the "light" category for the missiles in that category at the time of the interim agreement are several times more powerful, several times "heavier" than our comparable systems.

At sea the interim agreement provides that the United States may have up to 44 missile-firing nuclear submarines containing 710 launch tubes. The Soviets are permitted up to 62 comparable submarines, with 950 launch tubes, in addition to a number of older type submarines. The Soviets are now engaged in building up to these levels.

I believe that strategic forces on both sides are larger than they need to be, *provided* that we can negotiate with the Soviets toward a common ceiling at a sharply lower level. Therefore I propose that we invite the Soviets to consider a SALT II agreement in which each side would be limited to 800 ICBMs and to no more than 560 submarine-launched missiles, equivalent to 35 missile-firing submarines of the Poseidon type. Long range strategic bombers, which were not included under the interim agreement, would also be limited to 400 on each side. Because the throw weight of the Soviet missile force is so much greater than that of our own, the two SALT delegations would be instructed to negotiate a formula for varying these basic numbers so as to bring the throw weight of the two intercontinental strategic forces into approximate equality.

The numbers resulting from the negotiating process need not be precisely the numbers outlined here, although I believe that significant variation from these numbers, if essential to successful negotiation, ought to move in the direction of further reductions rather than upward adjustments. Because the strategic forces of the countries are structured differently at present and because we are always searching for ways in which to reduce the potential vulnerability of our deterrent, the treaty need not follow the precise numbers for each type of weapon system I have suggested—so long as the aggregate total of intercontinental strategic launchers was 1,760 or less. Reductions to a level of equality would be carried out, in phases, over a period of time to be negotiated.

A treaty reflecting the essential features that I have outlined here would represent a real and significant step in the direction of stabilizing disarmament. It would put to rest many of the misgivings that we now have that the Soviets are seeking to attain strategic superiority by consolidating their advantage in SALT I. It would permit both sides to shift their resources from the building up of nuclear arsenals to the building up of their economies.

The Soviet Union has turned to the United States for economic assistance, for our capital, our agricultural produce and our advanced technology. So long as the Soviets support the greatly exaggerated military sector of their economy at anything approaching current levels, an American program of subsidized economic transactions and the transfer of sophisticated technology, whatever its intended purpose, will inevitably amount to aid to the Russian army, naval and air forces.

At a time when the Soviet economy is in great difficulty we ought to be able to persuade them that a reordering of their priorities away from the military sector is the best way to achieve economic well-being. Adoption of my proposal could be an important step along a path that could lead eventually to billions of dollars in savings on strategic weapons systems.

It would enable us *both* to reorder our priorities.

If agreed to, it would mark a turning point in U.S.-Soviet relations of historic proportions. It would carry us to the brink of peace.

Such an accord could transform the atmosphere of mistrust and apprehension that has clouded the horizon of East-West relations since the end of World War II. It would add immeasurably to the confidence of both our peoples, indeed, of all mankind, that the grim prospect of thermonuclear war can be set aside and our energies devoted to purposes more constructive and more enduring than the amassing of the weapons of war. It would be, if ever there was one, a genuine conceptual breakthrough.

In the new and more hopeful world that would result, we could look forward to a broadening of the foundation of mutual accommodation, a deepening of the spirit of cooperation in trade and commerce, science and technology and the arts, and in the freer movement of people and ideas.

This is a program for the beginning of a more peaceful world. It is worthy of our best efforts. And I am committed to do whatever I can to bring it about.

I am under no illusion about the difficulty of negotiating an arms reduction agreement along the lines outlined here. It will take time and hard bargaining. The view of some in the Administration that force reductions are not negotiable is premature; and there are many who do not share this judgment. After all, it was Henry Kissinger himself, who warned—in his book *The Necessity for Choice*—that to reject sound proposals because they appeared to be non-negotiable was to acquiesce in negotiating on Soviet terms.

Some weeks ago I urged the President to consider the program that I have outlined here tonight. The response has not been encouraging. The refusal of the Administration to consider seriously a program for Soviet-American force reductions is as disappointing as the tendency to seek a quick cosmetic agreement in June is dangerous.

There is no critical point for negotiations that will be passed if June comes and goes without a follow-on SALT arrangement. There is nothing unique about the month of June that would justify an extension of the SALT I interim agreement and thereby legitimize its terms beyond 1977 and prejudice the prospects for a meaningful and stabilizing SALT II treaty.

I am not content to let the matter rest upon the complex and multi-purpose judgments of an embattled White House, or with a Department of State whose passion for momentum is sometimes indifferent to the direction in which it is headed. I have today requested, as Chairman of the Arms Control Subcommittee of the Senate Committee on Armed Services, that the Secretary of Defense undertake an immediate and thorough assessment of my arms reduction proposal for transmission to the Subcommittee.

Adoption of this proposal would mark a radical departure from the tentative and often marginal approach to arms control that we have followed in SALT. Reductions on the scale I am proposing will encounter opposition, not least of all from those in the military services whose training, experience and orientation are likely to militate against strategic force reductions in general, and extensive reductions in particular. While it would be imprudent to discard the professional judgment of the military and irresponsible to ignore their advice, I believe that we must not allow their skepticism to stand in the way of a proposal which will enhance our security.

I am confident that American military planners can be persuaded of the advantages of bilateral cutbacks in strategic weapons and that they too, in the final analysis, reflect the hopes we all share for a more stable strategic balance and a more peaceful world. I would hope that the Soviet military, which has been unreceptive to proposals such as this in the past, would give careful consideration to the promise of a better life for the Soviet people, who could be freed from part of the enormous burden of the arms they now bear. Here the job of persuasion must fall to the Politburo, and to them I am simply saying: Let us break with the troubled past and seek a more fruitful and secure future for both our peoples.

UNFAIR LABOR PRACTICES IN THE FEDERAL COURTS

Mr. TOWER. Mr. President, the Senate will soon consider S. 3203, a bill to extend the National Labor Relations Act to nonprofit hospital employees. The Senate will then have an opportunity to consider the Tower-Ervin-Griffin amendment No. 1143 which would transfer the jurisdiction of unfair labor practices from the National Labor Relations Board to th Federal district courts.

This proposal has received a great deal of study and consideration for a number of years. The Subcommittee on Separation of Powers of the Senate Judiciary Committee, chaired by Senator Ervin, has examined the National Labor Relations Board at great length in the 90th, 91st, and 92d Congresses. As part of its review of the agency it issued a committee report which concluded that the agency has not followed the intent of Congress, and in fact, was structured in such a manner that it was incapable of performing effectively.

So as to better acquaint the Senate with the issues involved in our amendment, I ask unanimous consent that excerpts from the subcommittee's report be inserted in the RECORD at this time. While the findings do not include a review of the Board under President Nixon, its importance is not at all diminished since it is readily apparent that most of the defects are inherent, a result of the institutional framework in which the Board operates.

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

UNFAIR LABOR PRACTICES IN THE FEDERAL COURTS

SUMMARY OF FINDINGS

On the basis of its study, the subcommittee has found that in choosing between conflicting values—in difficult cases and in some that are not so difficult—the National Labor Relations Board has of late unreasonably emphasized the establishment and maintenance of collective bargaining and strong unions to the exclusion of other important statutory purposes which often involve the rights of individual employees. Unions unable to persuade a majority of employees to opt for collective bargaining have been able to get the Board to impose it for them. And the Board has been able to do this by a freewheeling interpretation of the statute's more general provisions, by applying double standards, and by ignoring plain legislative mandates. The Board has also, we find, in matters going beyond recognition and the establishment of bargaining, given interpretations to the statute which reflect an overemphasis on helping unions impose their will on employers and individual employees. The Board clearly believes that it knows what is best for employees and all too frequently subordinates individual rights to the interests of organized labor.

We have further found that Board doctrine is susceptible to changes in the political climate and, most particularly, to changes in the Presidency. Because of the ambiguous nature of some of the statutory language and the short term of Board members, some sensitivity to the winds of politics is to be expected. We conclude, however, that the Board has of late been overly sensitive to one set of political forces and to those policies of the act which they support, and increasingly insensitive to other legitimate interests which the NLRA also seeks to foster. One reason for this is that the political forces which operate on the presidential appointment power are too narrow and tend to focus only on achieving prounion or promanagement biases rather than on gaining a fair and intelligent weighing of all the various policies of the act. Another reason is that the Board seeks to conceal its rather narrow views of the act's purposes and its reaction to changes in the political climate (indeed, to conceal that it is making policy) by engaging in rulemaking in the guise of adjudication. This practice, a deliberate and flagrant violation of the Administrative Procedure Act, further narrows the forces which come to bear on the Board when it decides between conflicting values and thereby narrows the focus of the Board itself when it makes such decisions.

The net result is that the Board, in the exercise of broad delegated powers, has viewed the act largely in terms of union-management conflicts, and has given excessive weight to the development of unionism to the detriment of other purposes of the statute. In pursuing this one goal so doggedly, the Board has frequently exercised power that has not been delegated to it, has applied double standards, and has acted in other ways inconsistent with the act and the intent of Congress.

Judicial review has failed to check the Board's misuse of its power. In some ways, the Board's failures are not susceptible to correction by judicial review. Beyond the evidence shows that, if anything, the courts, and especially the Supreme Court, have to some extent taken advantage of the delegation of broad powers to the Board and have written their own notions of labor policy into the act. These courts intrude upon the legitimate area of discretion assigned by Congress to the agency. They give nothing more than lip service to congressional expressions of policy and to the Board applications of that policy founded upon experience and familiarity with the subject matter. Moreover, just as Board exercise of delegated power has changed with the political climate, so some courts, again primarily the Supreme Court, tend to favor one "Board" over another and to emphasize one purpose—the maintenance of strong unions—over other congressionally endorsed goals.

The subcommittee has also examined in detail the role of the NLRB's General Counsel. In 1947, Congress made his office independent of the Board. This restructuring eliminated the danger that involvement of the Board at the investigative stage would cause it to prejudge particular cases. However, the Board's jurisdiction, and judicial review of its decisions, were thereby made completely dependent upon the General Counsel's decision to issue the formal complaint which initiates the processes of the law. The exercise of this power lies within the complete discretion of the General Counsel, and there is no remedy for his failure or delay in issuing a complaint: not by the Board, nor the courts, nor even the Congress. The General Counsel thus controls the access of unions, employers, and employees to the protection of the act. The subcommittee has been unable to determine what, if any, standards are employed by the General Counsel in determining whether a complaint shall issue. The unreviewable nature of many of his powers creates a risk that they may be misused. And, unfortunately, we find that has been the case.

On the basis of these findings the subcommittee has made several recommendations. Principal among these are suggestions as to how the Board can be made to listen to a wide range of criticism and to use its rulemaking power when appropriate. The subcommittee also has made recommendations as to how congressional oversight of the agency can be systematized.

ADMINISTRATION OF THE ACT BY THE NLRB

The National Labor Relations Act which Congress authorized the Board to enforce is the product of three great legislative efforts: the Wagner Act of 1935, the Taft-Hartley Act of 1974, and the Landrum-Griffin Act of 1959. In each case the Congress, after much work and in an atmosphere of the greatest controversy, sought to fashion law which would recognize many different and conflicting interests, give them the protection of law, and try to bring them into some degree of harmony and balance. As a result, the labor statute contains many generalities, ambiguities, and seemingly conflicting purposes. The Board is faced with the difficulty of applying this complex statutory fabric to varied factual disputes. Because the statute is a reflection of competing interests, the Board has at its disposal statutory language, policy, or legislative history to buttress any one of a wide range of decisions it might render in a particular instance. In highly controversial areas, where competing interests—each recognized in some degree in the statute—come to bear, it is often difficult to say that a Board decision is completely unsupported by any part of the law.

Nevertheless, selective interpretation of any statute cannot be considered proper administration of the law. Every statute must be interpreted as a whole. The Board is required to accommodate conflicting goals, and if it must choose among them it must at least give all of the purposes fair weight. The statute should not be regarded as offering a series of alternative provisions which the Board is free to pick and choose from as it wishes. Because it is often difficult in particular cases to tell whether the Board is exercising its discretion properly and is fairly weighing all relevant considerations and seeking generally to maintain the accommodations which Congress sought to make, it is necessary to compare the results over time in these cases to determine whether a pattern exists. Such a pattern would in time reveal how the Board exercises discretion, and whether it gives all purposes of the act fair weight.

During the hearings defenders of the Board's work, often from the academic community, made much of the fact that many provisions of the National Labor Relations Act are very general or very ambiguous. And, because they generally focused on certain celebrated decisions rather than the work of the Board as a whole, these witnesses argued that the Board cannot be faulted for exercising its judgment in interpreting statutory mandates which seem to have more than one permissible interpretation. But this truism conceals the real issues underlying charges that the Board has not been faithful to congressional purpose. As Prof. Harry Wellington of the Yale Law School noted, "the NLRA does not have a purpose", and interpretation of its provisions often requires the Board to accommodate conflicting goals and to choose among them. In exercising such a choice, it is to be expected that reasonable men frequently will differ. But it is plain that the act contemplates a process of decision-making which fairly weighs all the various purposes of the act and that one goal will not be unreasonably emphasized to the exclusion of others. The authority that Congress delegated to the Board is predicated on the agency's remaining faithful to the adjustments between the competing interests that Congress made. The Board's function is neither to strike new balances nor to destroy or ignore those that Congress decided upon. The establishment of collective bargaining, for instance, should not always be thought to outweigh freedom of choice on the part of the employees. Nor should the Board be permitted, no matter how general the statutory language, to be unprincipled and to apply a double standard. It should, in sort, be consistent in applying the rules it purports to adopt. Finally, not all the statutory language is ambiguous or general. Some, in fact, is very precise. In such cases, the Board has no discretion to exercise and its failure to comply with the statutory mandate cannot be excused. The failure of the Board to comply with precise statutory language, however, serves to illuminate the narrow way in which it goes about deciding cases where discretion exists and several goals of the act must be accommodated.

The following discussion will focus on several areas of the law which reflect some of the more controversial interpretations and doctrines established by the Board. They are by no means the only areas in which the Board has thwarted congressional will. Secondary picketing, multiemployer bargaining, the statutory definition of employee, other unit determination problems, etc., might also be discussed. This, however, would be cumulative as far as the subcommittee's conclusions are concerned. The issues discussed below are both sufficiently representative and important. Nor have we attempted to include within the report a complete catalog of Board decisions relating to particular problems. Rather, for purposes of brevity and clarity, we have dealt only with the leading or seminal cases where important issues are involved.

Representation elections, speech, and authorization cards

The Board has long purported to test the validity of a representation election by determining whether it was held in "laboratory conditions." Two avenues of attack on the validity of an election are commonly used. The first is proof that a party committed a preelection unfair labor practice which affected the election. The second is proof of conduct which is not itself a violation of the statute but is otherwise thought by the Board to destroy the "laboratory conditions." Plainly, the Board has an enormous amount of discretion within this very general frame-

work and, in the exercise of this discretion, must accommodate various conflicting purposes of the statute. Equally plain, though, is the fact that the basic goal is to determine the free and informed choice of a majority of employees. But the infinite range of campaign tactics and number of incidents which will be alleged to have occurred in a preelection period call for a case-by-case development and elaboration of legal standards by the Board.

One example is the problem of individual discussions with employees. The Board in *Peoria Plastic Co.*, 117 NLRB 545 (1957), stated clearly that use of "the technique of calling all or a majority of the employees * * * into the employer's office individually or calling upon them at their homes to urge them to reject a union * * *" would be sufficient to upset an election. In *Plant City Welding and Tank Co.*, 119 NLRB 131 (1957), on the other hand, the Board indicated, although the facts seem not to have required it to do so, that calls by union organizers at the homes of individual employees did not destroy the desired "laboratory conditions". The Board's rationale was that the unions have less of an opportunity than employers to speak to employees in formal or informal groups and that an interview by an employer representative is inherently more coercive than one by someone from an organizing union. Even though this reasoning seems seriously weakened by decisions such as *May Department Stores Co.*, 136 NLRB 797 (1962), which enlarged the relative ability of unions to speak to groups of employees, one might still say that such a result, viewed in isolation, had been reached by a tribunal seriously concerned with the need for employees to hear both sides and exercise free choice. Such a result, in short, was not necessarily dictated solely by a desire to help union organizers. But these decisions ought not be viewed in isolation, for they are part of a whole fabric of law governing election campaigns and their real significance may be determined only in the light of other decisions.

One of the most vexing legal problems of preelection conduct involves the issue of what kind of speech constitutes an unfair labor practice or sufficiently inhibits free choice to upset an election. Because of section 8(c),[1] speech alone cannot be the basis of an unfair labor practice charge unless it coerces or promises some benefit. What is coercive speech, however, is again a question on which reasonable men can differ in particular cases. But one thing is clear and that is that the present Board has initiated a "trend * * * toward ever increasing restrictions on employer speech * * *," *NLRB* v. *Golub Corp.*, 388 F. 2d 921, 926 (1967), and has gone to the limit and beyond in finding a coercive impact in isolated and relatively innocuous remarks by employers. The most significant line of cases here involves the Board's attempts to find "threats" in predictive statements.[2] In *Golub*, for instance, the employer had merely pointed out to the employees what economic effects were possible results of aggressive unionism—unemployment, etc.—and that a collective agreement with rigid rules might preclude individual discretionary benefits. That such consequences are in fact quite plausible results of unionization was of little import to the Board. More significantly, the Board failed to take into account a very real disparity in ability to engage in campaign rhetoric when it formulated severe restrictions on employer predictions. The union is always free to promise increased benefits as a result of its efforts. The only effective response the employer has is the one used in *Golub*. To prohibit such a response is either to deny an elementary fact of economics and collective bargaining or to conceal from employees an important issue on which their vote might turn.[3]

Footnotes at end of article.

But speech need not be found "coercive" only to support an unfair labor practice charge, for the Board decided soon after passage of the Taft-Hartley Act that section 8(c) did not prevent the Board from invalidating an election because noncoercive speech had disturbed the "laboratory conditions."[4] That reading of the statute, unsupported as it is by statutory language and surely in conflict with the spirit of section 8(c), is itself hardly mandatory. Needless to say, the concept of "laboratory conditions" for elections has no counterpart in American political practice. Indeed, the idea that speech of any kind, much less "protected speech," can invalidate an election is unacceptable outside of labor law, and is dubious within it. The application of this principle, moreover, appears to give the Board a great deal of leeway to apply double standards. Testimony before the subcommittee indicated, for instance, that whereas racial appeals by an employer will be closely scrutinized, similar tactics by unions find the Board more tolerant. In *Sewell Mfg. Co.*, 138 NLRB 66 (1962), an employer has emphasized to a group of presumably white employees the role the labor movement and unions generally had played in the struggle for racial integration. The Board, finding that such an appeal to racial prejudice had destroyed the "laboratory conditions," invalidated the election. In *The Archer Laundry Co.*, 150 NLRB 1427 (1965), however, a union, in seeking to organize a group of Negro employees, had analogized the campaign for representation to the struggle for civil rights in the South, depicted those who oppose unions as automatically racist, and pictured the employer as an analog to brutal police, dogs and firehoses: the symbols of southern racism. Although this was an obvious attempt to equate the employer with white racism, the Board, suddenly seized by a concern for free speech, found this to be merely a permissible appeal to racial pride.

The Board's rule has not been limited merely to inhibiting employers from presenting the arguments against unionization to employees. Under *Bernel Foam Products Co.*, 146 NLRB 1277 (1964), which overruled *Aiello Dairy Farms*, 110 NLRB 1365 (1954), a union may proceed to an election without waiving preelection unfair labor practices by the employer which may have affected the election. Although the Board has sought to justify *Bernel Foam* on the grounds "that the public interest in protecting free employee choice does not require a union to forego the right of employees to a secret ballot election as the price of remedying"[5] an unfair labor practice, the Board itself does not necessarily decree such an election as a remedy. Instead, the Board frequently directs the employer to bargain with the union on the basis of authorization cards signed by the employees before the election.

Testimony before the subcommittee has indicated a lack of agreement on whether Congress intended by the Taft-Hartley Act to eliminate the issuance of bargaining orders based on card checks. That statute eliminated from section 9(c) the words "other suitable method," thus leaving in that provision "election by secret ballot" as the only specified means for resolving questions of representation. Those who believe that authorization cards may still be relied on in fashioning remedies under section 8(a)(5), however, note that Congress specifically rejected an amendment to that section which would limit to certified unions alone the employer's duty to bargain. In the subcommittee's view, the weight of the evidence shows a decision on the part of Congress to rely upon the election process as the only authorized method of determining the wishes of employees on the question of organization. The persistent use of the card check to replace the election process is, therefore, a violation of the Board's obligation to enforce the terms and intent of the statute.

Whatever their views on the legislative history, however, most observers believe authorization cards are not a trustworthy method of determining employee choice. At the time of signing the employee may well not have thought much about the issues involved or have heard conflicting arguments. His signature may in fact be solicited under circumstances which distract him from the problem entirely: at a party, in a tavern, etc. The exercise of "choice" is not secret but open, and thereby likely to be influenced by subtle, as well as not so subtle pressures.

As a result, the unreliability of authorization cards is legion. Chairman McCulloch himself reported in a speech in 1962:

"In 58 elections, the unions presented authorization cards from 30 to 50 percent of the employees; and they won 11 or 19 percent of them. In 87 elections, the unions presented authorization cards from 50 to 70 percent of the employees; and they won 42 or 52 percent [sic] of them. In 57 elections, the unions presented authorization cards from over 50 percent of the employees and they won 42 or 74 percent of them."[6]

And yet the Board does not give serious consideration to the efficacy of a rerun secret election. It issues bargaining orders based solely on authorization cards from a bare majority of employees whenever it can in *Barnel Foam* cases. The Board not only relies on what is conceded by everyone, including Mr. McCulloch, to be a generally unreliable indicator of employee opinion but it also has constructed rules which minimize the impact of evidence indicating in particular cases that cards were secured by questionable conduct. The Board requires, for instance, that each card be invalidated individually by proof as to how it was secured. It gives no consideration to the totality of the atmosphere. It permits union organizers to indulge in the pretense that the purpose of the cards is merely to bring about an election and will not invalidate them unless it was represented that was the *sole* purpose.[7] See *NLRB* v. *Golub Corp.*, 388 F.2d 921, 923 (1967).

This compares unfavorably with its contrary attitude toward employer action and speech which is suspected of poisoning the election atmosphere. Employer representations are held to vary strict standards, and no proof of specific effect is required. The conclusion is inescapable that the agency is concerned with the preservation of white glove "laboratory conditions" only when it considers preelection conduct by employers. The net result in the card cases has been that very often unions are imposed as bargaining representatives on employees who have not registered their choices in the manner and according to the conditions Congress set forth. Because of substantial delays in agency processing, often the employees so subjected are substantially different from those who signed cards years before. In *Bryant Chucking Grinder Co.* v. *NLRB*, 389 F. 2d 565 (1967), for instance, the bargaining order was enforced nearly 5 years after the union lost the election. And lest one be prompted to repeat the well-worn refrain that any other result would encourage employers to engage in delay, we note that in this case, as in most, responsibility for the delay goes to the General Counsel, the trial examiner and the Board. The Board's claim that such rules are necessary to preserve the "right of employees to a secret ballot"[8] rings rather hollow in light of the practical effect of Board decisions, which is to deemphasize the election procedure.

The Board's disregard of secret elections as the best means of determining employee choice and its determination to impose unionism whether or not the employees want it is exemplified by its decision in *Conren Inc.*, 156 NLRB 592 (1966). Section 9(c)(3) forbids the holding of valid elections within

12 months of each other. The section clearly is intended to establish industrial stability and peace for 1 year after an election. The Board in *Conren* held the employer violated 8(a)(5) when he refused to recognize a union with authorization cards from 28 to 53 employees 9 months after the union lost a valid election. The Board's holding that the employer did not have a good faith doubt as to majority status seems unbelievable in light of the previous election and the slim majority of authorization cards. Indeed, given the Board's experience, as reflected in Chairman McCulloch's speech, on the unreliability of cards, an employer who recognized a union on the basis of 28 cards with 53 employees might more plausibly be found to have committed the unfair labor practice of recognizing a minority union.

But we must not exaggerate the Board's faith in authorization cards. For where two unions are competing for representation status, the Board has found cards to be "notoriously unreliable"[9] and has in fact held employers who recognized a union, subsequently found not to have a majority, on the basis of a card check to have committed an unfair labor practice.[10] The contrast between the Board's attitude toward cards in union-versus-employer cases as opposed to union-versus-union cases is further evidence of its use of double standards in administering the act.

The effect of these decisions is to disregard the right of a majority of employees in an appropriate unit to make a free and informed choice of whether or not to be represented by a union. Union representatives, unlike those from management, may visit employees in their homes to persuade them to sign authorization cards. Authorization cards may be so drafted or explained verbally as to emphasize their role in obtaining an election—which even antiunion employees might desire as a matter of principle—and to minimize the fact they also authorize the union to represent the employees. They may be obtained in circumstances which prevent a reflective decision. On the other hand, the employer must be careful when rebutting union promises of increased benefits not to estimate what the cost of those benefits may be lest he "threaten" rather than "predict". Nor should he interrogate employees to determine the validity of cards presented to him. For if he does "threaten" or "interrogate," he will have to prove the invalidity of each card individually with evidence as to how it was obtained. Nor will he be able to claim that cards are "notoriously unreliable", for only a union can successfully make that argument. Such a legal structure can be based only on the Board's belief that it knows better than the employees what is good for them and on its determination to encourage unionism to the point of preventing a free and informed choice by a majority of employees. And that is a misuse of the power Congress had delegated to it.

Further evidence of misuse is found in Board rules—disapproved by the Supreme Court in *Leedom* v. *Kyne*[11]—on decertification. Although the act specifically requires that professional employees are to vote separately on whether they wish to be included in a unit with nonprofessionals, the Board, overruling an earlier decision, held in *Westinghouse Electric Co.*, 115 NLRB 530 (1956) that such a separate vote would not be held in decertification cases. Certified unions generally are well-protected by other rules, such as the one which bars an employee from testing the majority status of a certified union through an election unless he can show on the basis of "objective considerations" that he believes the status to be doubtful.[12] And since he may not poll employees himself and a large turnover since the last election is not an "objective consideration," the thrust of section 9(c)(2)[13] is wholly blunted by Board decisions. Again, statutory mandates give way to the Board's policy of encouraging unionism.

The best example of unevenhandedness of Board decisions in this area is *Herbert Harvey, Inc.* v. *NLRB*, 385 F. 2d 684 (1967). In that case a union petitioned for election, the Board asserted jurisdiction, and the union was certified. The employer refused to bargain, however, and the principal defense to the unfair labor practice charge related to the jurisdiction of the Board. The merits of this issue need not concern us because in a prior unpublished decision, *Specialized Maintenance Services, Inc.*, case No. 22-RM-222, (1966), the Board had refused to assert jurisdiction in indistinguishable circumstances. The court of appeals noted, "From that case we perceive an inconsistency which remains totally unexplained." And, indeed, the only distinguishing feature was that in *Specialized Maintenance* the employer was the petitioning party while in *Herbert Harvey* it was a union. And that well demonstrates what factors seem to weigh heavily with the Board in adjudicating cases under the act.

The right to refrain from concerted activities

A major change of direction in American labor law came when Congress, by the Taft-Hartley Act, gave Federal protection to the right of individual employees to refrain from, as well as to engage in, concerted union activities. The protection granted, however, extended only to rights other than internal union rights. Thus, while a union may expel an individual from membership for failing to live up to a requirement imposed by the union, it may not affect his employment status or harm him physically. The separation of union rights from job and other rights is reflected in section 8(a)(3)[14] and section 8(b)(2)[15] which, although permitting union shop clauses, prohibit unions from affecting the employment relationship for any reason other than employee's failure to tender periodic dues. And section 8(b)(1) makes it an unfair labor practice for a union "to restrain or coerce (a) employees in the exercise of the right guaranteed in section 7: *Provided*, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein * * *."

There should, therefore, be no doubt that a union may expel a member for refraining from concerted activities which violate union rules when those rules do not frustrate statutory processes essential to the administration of the law. What other penalties it may resort to, however, is not so clear. May it, for instance, impose a fine?

Although the question is not without much controversy, the testimony before the subcommittee is strongly persuasive of the conclusion that Congress did not intend to include fines as permissible means of enforcing union rules. Section 8(b)(1)(A) speaks only of "acquisition or retention of membership," thus indicating that Congress left the union with expulsion as its only weapon. A union then is permitted to restrict employee rights only at the risk of depleting its membership. Such a reading of the statute by the Board would strike a balance between union and employee rights entirely in keeping with the spirit of the law.

It has, however, been argued that payment of a fine is no more than a condition of retaining membership, and that a fine is a "lesser included" penalty which does not violate section 8(b)(1)(A). These arguments, however, would be strengthened if the Board required that fines be imposed only after notice to the union member that he had the option to leave the union rather than pay the fine. But the Board has not stopped with the arguably permissible. It not only has sanctioned the imposition of fines without notice that payment was merely a condition of retaining union membership, but has also permitted unions to bring suits for collection in State courts. (See *NLRB* v. *Allis-Chalmers Mfg. Co.*, 388 U.S. 175 (1967).) Court suits to collect fines plainly go beyond the statutory restriction of discipline "to rules with respect to the acquisition or retention of membership therein * * *." When imposed on an employee for crossing a picket line, or for exceeding union-imposed work or wage limitations, moreover, such actions infringe on job rights because they seek to deprive the employee of the economic gain achieved by violating the union rules. By holding such actions are protected by the proviso to section 8(b)(1)(A), therefore, the Board has frustrated the legislative purpose embodied in that provision as well as the basic intent of Taft-Hartley to separate job rights from internal union rights. And it has done so, once again, in a way which helped unions impose their will on individual employees.

The Supreme Court had difficulty with the Board's rationale and did not, as did the Board, casually sweep aside the quite evident problems of reading the section 8(b)(1)(A) proviso to permit court enforcement of fines. Rather, a badly divided Court resorted to the even more indefensible argument that court actions to collect fines do not "restrain or coerce". That such a reading of the statute makes no sense—absent a judicially established policy to aid unions in compelling adherence to their rules—seems beyond argument. As Mr. Justice Black said in dissent, "* * * It ill behooves this Court to seek so diligently to defeat this unequivocably declared purpose of Congress [to protect employees in their right to refrain from concerted activities], merely because this Court believes that too much freedom of choice for workers will impair the effective power of unions."

The impact of *Allis-Chalmers* may be great, for its doctrine extends beyond cases in which employees have merely refrained from concerted activities to situations in which they seek to employ the Board's statutory processes. The Board has limited the union's disciplinary powers in cases where members seek to file unfair labor practices in disobedience to the union's rules. See *Skura*, 57 LRRM 1009. However, in *Price* v. *NLRB*, 373 F. 2d 443 (1967), the Board permitted a union to discipline a member who invoked the processes of the Board in order to obtain a decertification election. Although in *Price*, no fine was ultimately levied, the rationale of *Allis-Chalmers* would seem to permit court-enforced fines for resorting to the Board's statutory processes. Thus, while the Board will protect the act's processes in some instances, it will not do so when the union's life is at stake. It has determined that the union's right to defend itself is more important than the right of employees to employ statutory processes to rid themselves of a union which no longer commands the adherence of a majority.

Subsequent cases, especially that of *Scofield* v. *NLRB*, 394 U.S. 423 (1969), which involved a fine for exceeding union-imposed production ceilings, further elaborate on the union-fine rules and give valuable insight into the Supreme Court's approach to its functions under the act. The Court's opinion in *Scofield* announces a rule of law having few if any points of contact with the Board's view of the Statute and, needless to say, one which has no relationship to the statutory language.

The upshot of the union-fine cases is that while unions may not affect the employee's job rights, they can prevent him from actually working and, if he works, prevent him from getting paid. The statutory protection of job status is reduced merely to the right to remain on the company books as an employee.

THE INFLUENCE OF POLITICS ON THE BOARD

Because of its structure, its history, and the nature of the controversies with which

Footnotes at end of article.

it deals, the Board has always demonstrated a susceptibility to political influences. Ambiguities in the statute and the necessity to delegate power to apply more or less general statutory principles to differing factual situations create room for large amounts of agency discretion. Given the impossibility of enacting foolproof or tamperproof statutory language in such a controversial and complicated field of law, and given the necessity to delegate discretion in the resolution of issues, some degree of political responsiveness is probably unavoidable—and when kept within close bounds, perhaps tolerable—in an institution which is imperfectly judicialized.

Interested parties, particularly employers and unions, feel they have an important stake in how this discretion is exercised. There is a strong incentive on the part of the more organized groups representing these interests to attempt to influence appointments to the Board in order to have appointed men sympathetic with their views of the statute. The pressures with muscle behind them represent narrow interests: prounion and certain kinds of unions, and promanagement, and certain kinds of management. The pressures are intense. They are not diffused, as in the case of judicial appointments, by the variety of other forces and considerations which are reflections, in part, of the more general subject matter presented to courts. Members appointed to the Board, therefore, come to office with definite viewpoints and rarely change their views during the time they serve.

The alternative of longer terms for Board members will not eliminate the responsiveness to politics inherent in the nature of the appointment process. Indeed, longer terms may increase these pressures because of the relative permanence of the influence of the members.

The importance of the relatively short 5-year term lies in the fact that it injects into the Board a sensitivity to changing political climates as new members with different views are appointed. Thus, theoretically at least, short terms offer the promise that all parties to the legislative compromise and all competing interests affected by the statute will not be permanently shut out of the Board and that, while doctrine may change, it will change within the limits of discretion confirmed by Congress.

As the hearings demonstrate, however, this theoretical advantage of short terms has not generally been demonstrated in practice. The orientation and personal views of the members have tended to be so strong that the Board has deliberately frustrated congressional purpose by exceeding the limits of its discretion. The Board should serve, not compete, with Congress. Second, the Board exhibits a tendency to be so responsive to selected interests as to give these views overwhelming weight. These interests remain strong even with changing administrations. The appointment process has not produced different Boards which weigh conflicting goals of the statute and evolve law that gives recognition and balance to all interests.

Service on the Board has not served to broaden the views of the Board members. On key issues a built-in polarization—or consensus—exists which eliminates any hope that discussion and persuasion with other members will have any effect. Broader viewpoints on issues such as freedom of contract or the rights of individual employees are viewed as makeweights designed to reach a particular result. And there is no incentive for Board members to seek out other views, because criticism appears narrow and unfair and is looked upon as a politically motivated attack rather than a source of information. Chairman McCulloch's testimony before the subcommittee, for instance, was in large part concerned with questioning the motives of the Board's critics. The implication was plain. Critics were either ill-informed or acting from malice, a conclusion buttressed by the number of management attorneys—usually unnamed or deceased—who had, he testified, told him privately that the Board was doing a fine job. Such a viewpoint in turn creates a temptation to conceal the rationale of decisions and to act as though the Board has no policymaking functions. Criticism is answered by questioning the motives of critics or by referring them to Congress with a helpless shrug. In one sense, then, the Board's problem is not that it is thinly insulated from outside forces, but that it is altogether too isolated from them. This singleminded obtuseness in turn heightens the frustrations of those subject to the law who feel their legitimate interests are ignored. Criticism and the inevitable Board reaction increase in stridency until the agency begins to take on the appearance of a besieged band of diehards rather than a quasi-judicial government body.

It is the view of the subcommittee that the present structure and operation of the Board tend to lead to an overly narrow view of the goals of the act by the agency and to encourage it to give one value overwhelming weight. Nothing else explains the vulnerability of these decisions to the charge that they infringe on the right of individuals to refrain from union activities or hamper a majority of employees in an appropriate unit from deciding not to be represented by a union. And, on occasion, as in *Herbert Harvey* or *Golub*, the Board's rulings seem based more on a guess as to how much it can get away with than on a fair balancing of conflicting considerations.

The evidence adduced at the hearings substantiates the view that the Board is politically responsive. The rule as to whether a union waives preelection employer unfair labor practices by proceeding to an election, the rules governing captive audience speeches and doctrine concerning the permissibility of craft severance have changed each time a different party captured the White House. Much of the doctrine discussed in the previous section was developed by the "Kennedy Board" and could not conceivably have been established by the preceding "Eisenhower Board." The initial interpretations of section 8(b)(7) were made by a Board dominated by appointees of President Eisenhower. Before the decisions became final, however, Kennedy appointees gained a majority and the very same cases were reheard and the initial interpretations reversed. Indeed, much of the controversy surrounding the Board results from a frustration caused by the belief that new appointees to the Board after 1961 were favorable to strong unions and were able to effect greater changes in the law as it stood in 1959 than did Congress by enactment of the Landrum-Griffin Act. And this in turn has aggravated the feeling that Congress has lost control of labor law to an overly powerful Board which writes its own policies into the act. Thus, it is not unreasonable to think that those seeking to limit organizational picketing were far better off with the "Eisenhower Board" and the vague mandates of section 8(b)(1)(A) than with the "Kennedy Board" and the relatively specific section 8(b)(7).

None of this is to suggest that Board members are dishonest. Quite the contrary: for it seems fairly certain that only an honestly and deeply held belief that employees would be better off with unions could have led to many of the decisions described above. Nor is it to say that only Democratic appointees come to the Board with a narrow view of the act. During the 1950's, the "Eisenhower Board" was criticized as being "promanagement" no less severely than the present Board has been for being "prounion." The present Board's desire to help unions, however, has not stopped merely with the overriding of precedents from the Eisenhower era. In fact, it has supplanted decisions of the "Truman Board" in its zeal to rewrite the law.

JUDICIAL REVIEW

At the outset, it must be noted that judicial review cannot be a complete remedy for every failing of the Board. Within restricted areas of the statute, and usually in those that leave limited discretion to the Board, courts with considerable experience in labor cases have some opportunity to form judgments of the Board's approach over time. In some circuits, repeated exposure to Board methods and decisions may result in court reversals and harsh correctional language designed to chastise what the court considered abusive tendencies and inadequate procedures. As a general matter, however, this is of limited usefulness and has limited effect on the Board, which tends to characterize the judges as "anti-Board" rather than helpful critics. Where the statute delegates large doses of discretion to the Board to interpret a number of very general provisions, however, the Board is required to weigh a number of competing values and to find an accommodation between them. And although we cannot expect different boards to agree on which values govern the decisions of individual cases, we do expect that fair consideration will be given to all the purposes of the act and that no interest will always dominate. Judicial review must proceed on a case-by-case basis. In areas in which the Board has discretion a court cannot know whether the Board gave fair consideration to all of the conflicting values involved. In reviewing a Board decision holding that subcontracting is a mandatory subject of bargaining or that a district office is an appropriate unit in the insurance industry, for instance, a court can say only that the result is a permissible one under the statute. It simply cannot evaluate whether that result was reached by a fair weighing of all the considerations involved rather than by an automatic application of one policy, for example, the establishment and maintenance of strong unions. Statistics showing court approval of the Board and recitations of affirmances in individual cases prove little if anything about the way the Board administers the law. Thus, even if the overall approval rate were higher than the mediocre 62.3 percent that it is, or the 23.5 percent it fell to in one circuit, this would not be useful evidence upon which one could make judgments about the Board.[16] Whether the Board's discretion is being exercised properly can be determined only by an overall, rather than case-by-case, view of the Board's work which compares the results reached in different parts of the statute and the interpretations given in discretionary areas with those reached where the statutory language is more precise. Only then can a pattern, if one exists, be determined.

Judicial review, therefore, even when carried on in an ideal fashion, would not be a great check on the exercise of the Board's power. But the hearings also clearly demonstrated that the courts' review of the Board is itself hardly carried on in an ideal fashion. Although the statute gives the Board large amounts of discretion because it is a specialized agency, the Supreme Court particularly does not show any great deference to the Board's exercise of that discretion. And even where language indicating deference is used, it has been suggested that this is only a makeweight for a particular result. There are many examples of cases in which the Supreme Court has either affirmed the Board by agreeing that "the" correct rule was applied, thereby treating the issue as though it was not discretionary, or has reversed and applied its own rule. In other cases it has affirmed, but only after substituting its own rationale.

In *Allis-Chalmers*, for instance, the Court

Footnotes at end of article.

rejected the Board's reading of the rather specific proviso to section 8(b)(1). Rather, it turned to the generalized language "restrain or coerce" and placed its own narrow interpretation on those words. Assuming *arguendo* that such an interpretation is permissible, clearly it ought to come from the specialized agency first and not from the reviewing court. Other decisions confirm the Supreme Court's usurpation of a policymaking function in labor law. Although it has prevented the Board from controlling the results of negotiations in interpreting section 8(a)(5), it has achieved the same result under its reading of the vague language of section 301 [17] of Landrum-Griffin.

Finally, the hearings indicated that the courts have tended to favor the "prounion Boards" over the "promanagement Boards." Both Mr. Ratner and Chairman McCulloch noted the frequency with which the courts rejected interpretations of the "Eisenhower Board." It was also made clear that in areas in which the Board's exercise of discretion has shifted with changes in composition of the Board's membership, the courts are gradually insuring that future changes will not occur and that the interpretation they favor will predominate. Thus, it was indicated that the "Kennedy Board" rule on union waiver of preelection unfair labor practices cannot be reversed because of judicial decisions.

A good and recent example of this is the Supreme Court's decision in *NLRB* v. *Gissell Packing Co., Inc.*, 37 U.S. Law Week 4536 (1969). In that case, the Court held that authorization cards can be used as evidence of a prior majority and thus support a bargaining order. As discussed above, that interpretation is by no means a mandatory reading of the act. Indeed, the contrary view seems preferable. The Court's view of the reliability of cards, for instance, is rather peculiar:

"The employers argue that their employees cannot make an informed choice because the card drive will be over before the employer has had a chance to present his side of the unionization issues. Normally, however, the union will inform the employer of its organization drive early in order to subject the employer to the unfair labor practice provisions of the Act; the union must be able to show the employer's awareness of the drive in order to prove that his contemporaneous conduct constituted unfair labor practices on which a bargaining order can be based if the drive is ultimately successful. See e.g., *Hunt Oil Co.*, 157 NLRB 282 (1966); *Don Swart Trucking Co.*, 154 NLRB 1345 (1965). Thus, in all of the cases here but the Charleston campaign in *Heck's* the employer, whether informed by the union or not, was aware of the union's organizing drive almost at the outset and began his antiunion campaign at that time; and even in the *Heck's-Charleston* case, where the recognition demand came about a week after the solicitation began, the employer was able to deliver a speeech before the union obtained a majority. Further, the employers argue that without a secret ballot an employee may, in a card drive, succumb to group pressures or sign simply to get the union "off his back" and then be unable to change his mind as he would be free to do once inside a voting booth. But the same pressures are likely to be equally present in any election, for election cases arise most often with small bargaining units where virtually every voter's sentiments can be carefully and individually canvassed. And no voter, of course, can change his mind after casting a ballot in an election even though he may think better of his choice shortly thereafter." [18]

Such reasoning, however, wholly ignores the fact that the whole point of the secret ballot is to permit a public stance which differs from one's conduct in the ballot box. It is, moreover, wholly *a priori* and totally ignores the Board's experience. Chairman McCulloch's speech quoted above indicated that if a union was unable to obtain cards from more than 70 percent of the employees in a unit, its chances of winning a secret election are hardly better than even. *In three of the four cases before the Court in* Gissell, *therefore, according to Chairman McCulloch, it was virtually indeterminate whether the union actually had a majority.* The Court did not, moreover, give weight to the fact that Board itself believes cards to be "notoriously unreliable" when that view leads to the result it prefers.

Nor did the Court indicate that it was prepared to police the solicitation of cards so as to increase their reliability. The Court unequivocally endorsed the Board's *Cumberland Shoe* doctrine,[19] which permits union organizers to emhpasize the function of cards in getting an election—a process which antiunion employees might want to invoke on principle—rather than their function as the basis for bargaining orders. In one of the cases before the Court in the *Gissell* determination, the vast majority of card signers were told one or more of the following: (1) the card would be used to get an election, (2) that card signers would be free to vote against the union and (3) that the cards were secret and would be shown only to the Board to get an election. The Court agreed with the Board that none of these circumstances mattered since the cards on their face authorized the union to represent the employee. And so, where unions are concerned, the white glove "laboratory conditions" fall before the doctrine of *caveat signor*. The Court's outright refusal to consider the totality of the thrust of the union's campaign because "employees should be bound by the clear language of what they sign" [20] is shocking—and surely not less so because a number of the employees involved were illiterate or semiliterate.

In sharp contrast to this hands-off attitude is the Court's stand on speech by employers. Section 8(c) is virtually torn from the pages of the United States Code as the Court instructs employers not to predict dire economic consequences as a result of aggressive unionism unless they are based on "objective fact" which is "demonstrably provable." That an increase in the price of labor will usually result in the substitution of machines or in lowered sales because of higher prices is virtually an economic truism. The outlawed prediction, therefore, is presumptively true. The net result is that unions may promise the millennium regardless of "objective fact" and may solicit cards without much concern for disturbing the "laboratory conditions." Employers, on the other hand, may not point out a most relevant consideration to the employees.

This disregard for the first amendment rights of employers is disturbing. When the Board ignored them in the 1940's Congress enacted section 8(c). And now once again they are flagrantly violated. If such rules were applied to unions one would expect to hear the gnashing of judicial teeth over the "chilling effect'" of such restrictions on speech. Perhaps, however, employers have a recourse. It may well be that the Court will protect their predictions if they are cast in the form of pornographic literature.

The net result of all this is that large amounts of discretion delegated to the Board by Congress are now exercised by the courts, and that the courts have thereby usurped a significant policymaking role. And there are many indications that the courts, like the Board, do not always give fair weight to all the considerations involved.

THE GENERAL COUNSEL

Before 1947, the General Counsel of the National Labor Relations Board was subject to the authority and direction of the Board. Believing that such a structure combined the functions of judge and prosecutor in a way which prevented a fair hearing on unfair labor practice charges, Congress separated the prosecutory and adjudicatory functions by creating a General Counsel independent of the Board. But while this structure avoids prejudged adjudications, it creates a new danger that the power of the General Counsel may be exercised arbitrarily. The statute is quite vague as to what standards are to guide the General Counsel's determination of whether to issue a complaint. And because his decision is itself unreviewable, the failure to issue a complaint on the basis of a meritorious charge, therefore, has the same effect as a negative adjudication on the merits even though the Board itself has taken no action. If a complaint is issued on the basis of a frivolous charge, on the other hand, needless harassment results. Finally, if the General Counsel deliberately delays his decision, he may as a practical matter affect substantive rights.

The subcommittee is unable to determine what standards the General Counsel, at least in recent years, applies in exercising his exclusive power to issue complaints, other than to say that it is often exercised arbitrarily. One important issue is whether, when the present case law is not dispositive of a particular issue, the General Counsel should issue complaints no matter what his own view in order to let the Board and the courts rule on that issue. If he decides to permit his own view of the law to govern and that view is against the merits of the charge, the lack of review would make his ruling final. Thus we have an anomalous structure in which the General Counsel's negative views are conclusive while his decisions to issue complaints are fully reviewed. It is not at all clear what the General Counsel's view of his functions is in this respect. After the Supreme Court ruled in the *Allis-Chalmers* case, a number of charges raising issues concerning the excessiveness of fines imposed by unions were dismissed by his office. These dismissals were based on his view that the excessiveness of a fine was irrelevant. But that view was not explicitly endorsed by a majority of the Court and was in fact an open question. The General Counsel, however, seemed at that time to believe that he was empowered to render a conclusive decision. Subsequently, however, he changed his mind and later rulings have gone the other way, for after an inquiry by Senator Ervin, the General Counsel began to issue complaints which raised the issue of excessive fines. That the General Counsel finally came around to thinking that issue ought to be determined by the Board and courts rather than himself is not of much comfort to those members of unions who were compelled to accept his earlier rulings.

But if the standards which govern issuance of complaints by the General Counsel are unclear, it is clear that many rulings are arbitrary. One case, *Group Health Association*, case No. 5-CA-4122, which has come to the subcommittee's attention seems particularly noteworthy. In that case a consent election had been held and the union, which was not opposed by the employer, won by a small margin. An employee-composed grievance committee challenged this on the grounds that the unit was wholly inappropriate and arbitrary and that unfair labor practices had been committed. The petition for an election was then withdrawn and the union and employer entered into a contract recognizing the union as the exclusive representative of the employees who were members of the union. There was no evidence that the union had a majority in an appropriate unit. The union then sent a letter to all the employees indicating that retroactive benefits would be paid only to union members and that the employer had agreed to end endorsed this plain discrimination. At all

times thereafter, union members were paid more than non-union employees. It is not worth the printing expense to go into detail as to the merits of the charge since so many *per se* violations are obvious. The General Counsel did not, however, issue a complaint. On the other hand, an opinion of the U.S. Court of Appeals for the Sixth Circuit indicates that the General Counsel has issued a complaint against an employer based on a provision in a collective agreement six or seven times in spite of the fact of a specific judicial ruling on that very agreement to the contrary.[21] Although the court held it lacked jurisdiction to enjoin such patent harassment because his decisions are unreviewable, it went out of its way to say that his refusal to abide by the court's rulings was "little less than an affront." It should be noted that a similar provision was apparently also involved in *Group Health*, in addition to the other flagrant violations, and not one complaint was forthcoming. Such behavior by a public officer smacks of lawlessness.

But it is not merely in issuing or in declining to issue complaints that the General Counsel exercises arbitrary power. By delaying a ruling, he can as a practical matter affect substantive rights. Thus, by delaying a ruling in *Bryant Chucking* and many similar cases until the "Kennedy Board's" overruling of *Aiello Dairy*, the General Counsel was able to increase the retroactive effect of *Bernel Foam*. This not only aggravates the Board's failure to utilize prospective rulemaking procedures but also increases the danger of imposing a minority union through reliance on authorization cards signed by employees years before.

Delay in the issuance of a complaint can also be utilized for extrastatutory purposes where an injunction may be involved. Thus, in the copper strike,[22] which was of emergency proportions, the General Counsel took 3 months to decide that an unfair labor practice was being committed—although every other labor lawyer in the country knew that one was—and then deliberately delayed issuance of a complaint for another 6 weeks in deference to the mediatory efforts of the President. All this time an illegal strike was taking place. Mr. Ordman's statement at the hearings that he believed a settlement might be hampered by NLRB action was little more than a reflection of his belief that a settlement reached by forcing an employer to accede to illegal demands is better than the effectuation of the act. This reluctance to get involved in litigation, however, seems limited to cases brought against unions. In the *General Electric*[23] case, the General Counsel sought an injunction against the employer before a strike began, even though difficult and novel issues were involved. And for that reason the court of appeals for the second circuit refused to grant the injunction.

It is the subcommittee's conclusion that the General Counsel's independent and unreviewable authority to issue complaints has been abused and that the lack of any check on that power has permitted it to be exercised arbitrarily and lawlessly. As a result, congressional policy has not been effectuated.

FOOTNOTES

[1] Sec. 8(c) provides in part: "The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice * * * if such expression contains no threat of reprisal of force or promise of benefit."

[2] See e.g. *S.N.C. Manufacturing Co., Inc.*, 147 NLRB 809 (1964).

[3] For a discussion of the Supreme Court's view of sec. 8(c), see p. 48 infra.

[4] *General Shoe Corp.*, 77 NLRB 124 (1948).

[5] NLRB hearings, "Supplemental Memorandum of the NLRB to the Subcommittee on the Separation of Powers," Committee on the Judiciary, vol. 2, p. 1668.

[6] "A Tale of Two Cities: Or Law in Action" address by Chairman McCulloch at the annual meeting of the Labor Relations Law Section, American Bar Association, Aug. 7, 1962.

[7] *Cumberland Shoe Corp.*, 144 NLRB 1268 (1963).

[8] *Bernel Foam Products Co.*, 146 NLRB 1277 (1964).

[9] *Sunbeam Corp.*, 99 NLRB 546, 550 (1952).

[10] *Wheland Co.*, 120 NLRB 814 (1958).

[11] 358 U.S. 184 (1958).

[12] *U.S. Gypsum Co.*, 157 NLRB 652 (1966).

[13] *Laystrom Manufacturing Co.*, 151 NLRB 1482 (1965) enf. denied 359 F. 2d 799 (7 Cir. 1966). Sec. 9(c)(2) provides that the rules which govern whether a question of representation exists shall be the same whether the petition is filed by an employer or a union. The Board's decisions plainly place a heavier burden on employer petitions.

[14] Sec. 8(a)(3) provides in part that it shall be an unfair labor practice for an employer "by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization * * *." A proviso to 8(a)(3) permits execution of a unionship agreement compelling the payment of periodic dues. Beyond that, job rights may not be affected adherence, or the failure to adhere, to union rules.

[15] Sec. 8(b)(2) provides that it is an unfair labor practice for a union to cause an employer to violate sec. 8(a)(3).

[16] These figures are for fiscal 1967 and are taken from the annual report of the NLRB for fiscal year ending June 30, 1967—the latest available. Equivalent figures for the years 1962–66 are 5.7 percent and 42.4 percent, respectively.

[17] See Wellington, *Freedom of Contract and the Collective Bargaining Agreement*, 1963 Lab. L.J. 1016.

[18] *NLRB* v. *Gisell Packing Co., Inc.* 37 Law Week 4536, at 4543 (1969).

[19] *Cumberland Shoe* v. *NLRB*, 351 F. 2d 917 (1965).

[20] *NLRB* v. *Gisell Packing Co.*, 37 Law Week 4536 (1969).

[21] *Armco Steel Corp.* v. *Ordman*, 70 LRRM 3181 (6 Cir. 1969).

[22] *Kennecott Copper*, case No. 27–CB–453.

[23] *McCleod* v. *General Electric*, 366 F. 2d 847 (2 Cir. 1966).

THE ADMINISTRATION'S PROPOSED CUTBACKS IN MENTAL HEALTH FUNDING

Mr. HUMPHREY. Mr. President, last week the Washington Post carried an article by Geri Joseph, a contributing editor to the Minneapolis Tribune. Ms. Joseph's article clearly described the plight of our national health programs under the Nixon administration.

The symptoms of the administration's disinterest in the mental health sphere of national health services include diminished authority of the National Institute of Mental Health and the low priority of mental health services in President Nixon's proposed budget.

The budget prepared by the executive branch provides for a 6-percent reduction from last year's allocation. However, as with all programs, current economic trends necessitate increased financing simply to maintain existing programs. With reduced funding, NIMH will be forced to curtail current studies and eliminate innovative research endeavors.

Ms. Joseph provides an effective analysis of the ramifications of a reduction of the NIMH training budget. It seems clear that the elimination of stipends for psychiatric training would induce students to switch to other specialties or become involved in a more lucrative private practice to repay the debts they incurred in obtaining their education.

Mr. President, I ask unanimous consent that this enlightening article be printed in the RECORD.

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

[From the Washington Post, Apr. 17, 1974]

MENTAL HEALTH'S BUREAUCRATIC PAINS

(By Geri Joseph)

Mental health programs are not faring well in Washington these days. Somebody in the White House cares neither for the problem nor the profession. Or at least that is what a number of experts believe.

And they have good reason. One is the reduced authority of the National Institute of Mental Health (NIMH), the big, influential, federal agency that has had a marked, progressive impact on mental-health efforts in this country. The other is the low place on the totem poll given key mental-health programs in President Nixon's budget for the fiscal year beginning July 1.

Both setbacks lend credence to the distinct impression that overall-all health policy—if there is one—is based on something other than common sense and the needs of particular problems. NIMH difficulties also encourage the articulated suspicion that Mr. Nixon is "anti-psychiatry."

Last September, after months of controversy, two major programs—alcohol and drug abuse—were removed from NIMH's control and put on equal footing in a new and controversial agency, the Alcohol, Drug Abuse and Mental Health Administration.

Presumably, the change was to give more visibility to alcohol and drug programs. But almost no one approved to the new agency—not the alcohol or drug people and certainly not NIMH staff. All feared a smothering, bureaucratic superstructure, a not uncommon design in government.

Many alcohol and drug professionals would like their own agency for the same reasons mental-health specialists wanted that identity many years ago. Visibility helps both in rallying supporters and in getting congressional financing. (It can, on the other hand, provide an easy target, as NIMHers are learning).

But alcohol and drug problems fit logically under the broad aegis of NIMH. And last December, Roger Egeberg, acting head of the Alcohol, Drug Abuse and Mental Health Administration, admitted that while "we need to give alcoholism its head for a while," both programs probably would be back within NIMH within three to five years.

To mental-health workers, it is a political game of musical chairs, partly to cut NIMH down to size, partly to give the appearance—though not the budget reality—of greater administration support for drug and school efforts.

But the cut in authority is only part of the story. Proposed NIMH budget cuts may be more destructive than the agency's reduced size. There is particular concern in three areas—training, research and the community mental health centers program.

In both training and research, NIMH has been a leading source of funds. Neither program was cheap. The community mental health centers were intended to provide a nationwide network of psychiatric services closer to patients' homes than the remote state mental hospitals. The goal was 1,500 by 1980. Fewer than half that many now exist.

If the administration's proposed budget of $80 million for research is approved—a 6-percent cut from 1972—NIMH will for the

first time receive less than other health institutes. Research budgets for heart and cancer, for example, are the same as last year. With fewer dollars and more inflation, NIMH will have no new money for research proposals, and some current studies may need to be curtailed.

Reductions in the training budget could be no less serious. NIMH has been the major source of support for graduate training in mental-health fields. The majority of all psychiatric residencies in the country, for example, are supported in full or part by NIMH stipends. Medical schools rely on them, too, to underwrite some salaries and administrative costs. In 1973, NIMH spent about $100 million for 923 grants to institutions and stipends to 5,216 individuals. For 1975, the Nixon budget proposes $65 million.

Most NIMH-supported students—psychologists, nurses and social workers—go into community practice, which reaches more people than private psychiatry. An increasing number of NIMH-funded psychiatrists—perhaps 30 percent—also are choosing community psychiatry.

The administration believes that students in mental health fields should rely on loans, not stipends. But the cost of psychiatric training is so prohibitive that mental health officials claim that many students would switch to other specialties rather than assume the heavy debt. Or, on graduation, they would enter private practice where financial rewards would permit them to repay loans more quickly. The loser would be the patient who cannot afford private care.

Among other losers if training money is cut would be minority students who, helped by NIMH stipends, have been enroling in increasing numbers, particularly in psychiatric nursing and social work.

As for the community mental health centers, they have been targeted for a phasing out of the federal budget by June 30. The Congress, however, has expressed continuing support for the centers program, and it is to the Congress that mental-health professionals and citizen groups are turning for help.

They expect no help from the administration. Not only is there a strong conviction that the president is uninterested, even antagonistic. But one knowledgeable mental health executive said, "We think this administration is trying to come up with a health system that is brilliantly simplistic but leaves out difficult things."

Apparently the huge challenge presented by mental illness is one of those difficult things.

FRED FREED, 1920–74—A DISTINGUISHED AMERICAN PUBLICIST

Mr. JAVITS. Mr. President, the powerful influence of our society is heavily attributable to men and women who find their mission and our inspiration in the particular field in which they are situated by life and training.

I ask unanimous consent to have printed in the RECORD two articles on the life of Fred Freed.

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

FRED FREED, 1920–74

(By Reuven Frank)

Fred Freed's distinction as a producer of television documentaries was not in his Peabody awards, not in his duPonts, nor his Emmys, nor in the University of Missouri's Honor Award for Distinguished Service in Journalism, accepted for him posthumously 10 days ago.

It was in his straight-line manner of developing a subject, masking prodigies of research and sophisticated complexities of technique; in his concern for the world he lived in, and in his repugnance for extreme positions.

In his last programs, the pair about the search for American solutions to the energy crisis, he dealt with shale, with strip-mining coal, with off-shore platforms, with large companies and small adventurers. But over and over again, he wrote the line, "There is no energy crisis; there is only a money crisis." We could have as much energy as we were willing to pay for.

I asked him, "How often do you have to say that?"

He said, "I have been working on this for months, reading everything I could find, talking to experts on every side and that's all there is. Maybe if we say it often enough, they'll believe it."

In recent years he developed a concern for Americans and what had gone out of their lives, how difficult living was becoming, how different from his boyhood in Oregon. Workers without satisfaction, city-dwellers living in fear, the poor preying on each other. Most of all, the problem facing everyone: too many choices and too few certainties.

In program after program, the recurrent theme: "We must decide what kind of country we want to be." "We must decide what it is we want." Always "we" and always "decide"—in programs about pollution, in programs about energy, in programs about cities, in programs about work. More and more, he thought of his function as equipping people to decide, but never telling them what to decide.

No producer has a favorite program. For a producer, the memory of each is more involved with the agonies of gestation than with achievement. But often he will talk about a favorite program, and each time it will be a different one. Once, Fred told me his favorite program was "Pollution Is a Matter of Choice." It was about a community in Maine needing jobs and the jobs available if an oil installation were admitted, with all its threat to the matchless coast. He understood their pain, and considered this a paradigm of modern America.

His earliest reputation came from historical recapitulation, "The Death of Stalin" and "Summer of '67: What We Learned" and the rest. My own favorite among his programs was "Vietnam Hindsight," a two-part examination of how, all unwitting, we had gone deeper and deeper where neither we nor our leaders had wanted to go. There was little in these programs we did not know, but until we saw them we did not know how much we knew. Fred Freed could do that. He could crystallize and underscore as no one else I have ever worked with.

His world had few heroes and no villains. He pointed no fingers; he propounded dilemmas. He saw us as all bound together in the complexities of the human condition. He tried to help us find our way out, at least part way.

But I remember his brilliant, slashing exposé of the methods of Jim Garison in New Orleans. That one was long ago. It exhilirated him. We were talking about another one like that. But he ran out of time. He never had enough time.

[From the New York Times, Apr. 1, 1974]

FRED FREED, NBC PRODUCER OF PRIZE DOCUMENTARIES, DEAD—WON EMMYS AND PEABODYS FOR SHOWS ON WORKERS, POLLUTION AND POLITICS

Fred Freed, executive producer and writer of documentary news programs for the National Broadcasting Company television network, who won many awards for his shows, was found dead yesterday at his home, 1170 Fifth Avenue. His age was 53.

A maid discovered his body in bed at 11 A.M. The cause of death was not immediately determined.

Mr. Freed produced a score of "N.B.C. News White Papers," and won seven Emmy awards on such subjects as blue-collar workers, pollution, the Cuban missile crisis and the American military in the nineteen-seventies.

An N.B.C. spokesman said Mr. Freed was to receive the George Foster Peabody award for a three-hour "N.B.C. Reports: The Energy Crisis—An American White Paper, which was shown last Sept. 4. His most recent shows were two one-hour programs on the energy crisis broadcast March 21 and 28.

PEABODY AWARDS

Mr. Freed won earlier Peabody awards for "Organized Crime in the United States," shown in 1966, and "Who Killed Lake Erie?" shown in 1969.

He won two Alfred I. duPont-Columbia University awards in broadcast journalism in 1970 for his "Pollution Is a Matter of Choice" and in 1971–72 for "The Blue Collar Trap," about assembly line workers.

His other shows included "The Ordeal of the American City," "United States Foreign Policy" and "Summer, 1967," a study of black rioting. Based on the show, "The Decision to Drop the Bomb," Mr. Freed and Len Giovannitti wrote the book of the same title, which was published in 1965.

Mr. Freed was described as "the very model of the modern major newsman—tweedy, serious, cautiously skeptical—a tireless stalker of the specters of social unrest that haunt the television-watching average American."

As a television documentary producer, Mr. Freed was a combination reporter, movie producer, movie director and executive in a large corporation. Assisted by a large staff, he directed every aspect of making the programs: formulating the idea, hiring consultants (often statesmen and educators), researching locations, interviewing, film editing and script writing. "The only thing I don't do," he once said, "is appear on the screen."

He was born in Portland, Ore., on Aug. 25, 1920, was graduated from Princeton University in 1941 and served in the Navy in World War II as a communications and gunnery officer on destroyers.

Mr. Freed began as a magazine writer and editor, becoming assistant managing editor of Esquire magazine. He entered broadcasting in 1949 and joined the staff of the Columbia Broadcasting System's radio program "This Is New York" and then became editor-writer of the Ford Foundation-backed radio series "The People Act." He won his first broadcasting award—from Ohio State University—for a program in this series.

He joined N.B.C. in 1955 as script editor of the "Home" TV series and later returned to C.B.S. to produce such documentaries as "The Dollar Debate," "The World of Ideas" and "Politics, U.S.A." He won a Sylvania television award for writing and producing the "Woman" series.

Mr. Freed rejoined N.B.C. in 1961, first a producer of Dave Garroway's "Today" show, later as a member of the producing staff of the "N.B.C. White Paper Series." He also produced several programs in the "Du Pont Show of the Week" series on N.B.C. television.

Surviving are two daughters, Lisa and Katherine Celia; his parents, Mr. and Mrs. Edgar Freed of Portland, and two sisters.

A funeral service is scheduled for 1 P.M. Wednesday at Frank E. Campbell's, Madison Avenue and 81st Street.

NATIONAL SECRETARIES WEEK, APRIL 21–27, 1974

Mr. ABOUREZK. Mr. President, the last full week in April, for the 23d consecutive year, Secretaries Week will be observed, with Wednesday of that week highlighted as Secretaries Day, as acknowledgment of the contributions of all secretaries to the vital roles of business, industry, education, government, and the professions. Official proclamations

are issued throughout the United States and Canadian governments.

The National Secretaries Association—International, cooperating with the U.S. Department of Commerce, originated Secretaries Week. The involvement of all secretaries for this observance emphasizes the theme "Better Secretaries Mean Better Business" to promote the significance of teamwork throughout the business world.

RESOLUTION OF THE WESTERN STATES WATER COUNCIL REGARDING THE WATER RESOURCES PLANNING ACT OF 1965

Mr. DOMENICI. Mr. President, as I have stated so often here in the Senate, in order to realize their vast potential, many of the Western States such as my own, depend so utterly on water that the development and efficient utilization of our water resources holds the key to all the other potential I have mentioned. I would like to call to the attention of my distinguished colleagues a resolution of the Western States Water Council regarding the Water Resources Planning Act of 1965. This resolution was adopted by the Council in Boise, Idaho, on April 12 when the representatives of the 11-member States met to discuss items of mutual concern related to water resources programs in those States.

The primary concern was about Federal funding for on-going water planning efforts which have in the past been supported by title III of the Water Resources Planning Act of 1965.

That act, in recognition of the need for increased State participation in water resources planning, authorized appropriations of $5 million annually for grants to assist States in those planning efforts. Experience under the act indicates that States have consistently demonstrated both the interest and the need for increased grants by consistently overmatching the funds available.

For these reasons, the Western States Water Council urged the Executive and the Congress to take all necessary and proper action to insure that the full $5 million for title III of the Water Resources Planning Act of 1965 will be available for the very important purposes for which it is intended.

I intend to do all I can in that regard and I urge all Members of this body and the other body to do likewise. I request unanimous consent that the resolution I have mentioned be printed in the RECORD.

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

RESOLUTION OF THE WESTERN STATES WATER COUNCIL REGARDING THE WATER RESOURCES PLANNING ACT OF 1965

Whereas, the Water Resources Planning Act of 1965 was passed to help meet the rapidly expanding demands for water by encouraging the conservation, development and utilization of water and related land resources through coordinated and cooperative planning efforts; and

Whereas, that Act recognized the need for increased state participation in water and land related resources planning and authorized appropriations of $5 million annually for grants to assist the states in their planning efforts; and

Whereas, the states have demonstrated their interests and needs for increased grants by consistently over-matching the funds available; and

Whereas, the Executive Budget has been prepared; and

Whereas, Congress is considering the budget

Now, therefore be it resolved, that the Western States Water Council urges the President to include a full $5 million for Title III of the Water Resources Planning Act of 1965 in the Executive Budget for fiscal year 1976; and

Be it further resolved, that the Western States Water Council urges Congress to appropriate $5 million out-right for fiscal year 1975.

Be it further resolved, that the Western States Water Council urges Congress to extend provisions of Title III funding at a rate of not less than $5 million per year for an additional ten year period.

Be it further resolved, that a copy of this resolution be transmitted to the Governors of the Eleven Western States, to Congressional Delegates of the Eleven Western States and to any other parties of interest and concern as deemed appropriate by the Executive Director.

The foregoing resolution is a true and accurate statement of the unanimous position adopted by the Western States Water Council on April 12, 1974, Boise, Idaho.

AN AGENDA FOR DEMOCRATS

Mr. HUMPHREY. Mr. President, yesterday I was privileged to have the opportunity to deliver the keynote address at the Democratic Governors Conference in Chicago, Ill. Chairman Robert Strauss of the Democratic National Committee shared the program with me.

Both Chairman Strauss and I stressed the need for Democrats in Congress and elsewhere in government to develop programs and policies which respond to the real needs of the American people. I strongly believe that the Democratic Party—if it is to be successful in 1974 and 1976—must do more than criticize the failures of Republican leadership. We must develop constructive alternatives. And we must have the courage and the foresight to enact into law the programs we propose to the American people. It is clear that the voters—Democrats, Republicans, and Independents—are demanding governmental accountability from their elected officials. They want action and performance, and they want the truth about the serious nature of problems which government faces today.

In the spirit of contributing to what I hope will become a Democratic agenda for the remainder of the 93d Congress and for the 94th, I outlined a number of proposals in Chicago which I believe merit consideration by my Democratic and Republican colleagues.

Mr. President, I ask unanimous consent that the full text of my address to the Democratic Governors be printed in the RECORD.

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

REMARKS BY SENATOR HUBERT H. HUMPHREY, DEMOCRATIC GOVERNORS CONFERENCE, CHICAGO, ILL., APRIL 22, 1974

I have come to Chicago to engage in a frank dialogue with you and to share my perspective on the key Democratic issues facing Congress.

We meet today at a critical juncture for the Democratic Party and for our nation.

The November elections are slightly more than six months away. The Presidential election of 1976 looms over the horizon just two and a half years into the future.

For the men and women who lead the Democratic Party in Congress, in the state houses, the legislatures and in the cities, the period from now until November 1976 will be a crucial time of testing.

All of us must pass a test.

We will have to prove to the American people that we can respond to their real needs and govern America.

We will have to prove that our economy can be made healthy once again.

And as Democrats we must prove that we can govern the nation equitably, permitting no favor for the powerful and showing compassion for the weak.

If we pass these tests we can transform a substantial congressional majority *into* a Presidential victory.

To put it bluntly: 1974 and 1975 are years of decision and years of opportunity for Democrats. In the next two years we will either pass these tests demonstrating that we are capable of effective action and restoration of trust, or we will forfeit our claim to progressive political leadership capable of governing this great nation.

It will do little good to tell the American people what could be done if a Democrat were sitting in the White House today. Nor will future promises of what may be possible after 1976 serve us well. The people expect and demand our Party to act decisively to solve their problems from the position of trust and responsibility we now hold.

This is not an ordinary election year and our nation does not face routine problems. After many long years of dissension within our society at home and in war overseas, the American people have witnessed a series of events which every day erodes their trust in government.

We have seen the bounty of our great nation mismanaged at home and squandered for short-term advantage abroad.

We have seen our economy neglected.

We have seen shortages and scarcity grow through private greed and government shortsightedness.

We have seen our Constitutional system of delicate checks and balances dangerously tilted in favor of one branch of government at the expense of all others.

We have seen our political processes corrupted.

We have seen political power abused, and money abused as means of buying power.

We have seen highly placed trustees of the public confidence betray their trust, and act as though they were above the law—indeed, they have acted as though they were the law.

The unprecedented corruption and governmental mismanagement of the Nixon Administration may offer Democrats a unique political opportunity.

Watergate may offer us a momentary reprieve from the challenges of a President who threatened to use his electoral mandate to demolish our efforts to achieve greater social justice and progress in human rights. But it does not lift the burden from our shoulders of mustering the will and the vision to clean up the mess and to govern America so that the people can once again believe that *government* is run for them and not for the special interests.

The job to be done, the challenges to be faced are not only in Washington. Anyone who believes so doesn't understand our government, our people, their needs and expectations.

The American people don't compartmentalize government, as those who serve in it are prone to do. All government, from the federal level to the state houses, from city hall to county court house, has failed in the

public's view. And the political institutions which are supposed to nurture our system of government often do not work effectively. The public searches in vain for performance to follow the political promise—it searches for accountability after political leaders have been granted the responsibility of governing.

Public disillusionment with government and political parties occurs just at the time when the Democratic Party seems to be emerging from a decade of internal strife, division and turmoil. The long night of our despair seems to be over.

No longer are we divided over a war.

No longer are we locked in fierce battle over who should run our party.

We have grown stronger from our disagreements. We have become enriched by our self-imposed diversity.

I believe the Congressional Democrats must recognize the new strength of the Democratic Party—a party reformed, united anud strengthened after its long and agonizing ordeal.

And Democrats on Capitol Hill must now work closely with party leaders at all levels of government to fashion a Democratic program for the Congress—a program which will allow Democrats to go to the American people and say:

"We see how skyrocketing inflation destroys wage increases, making it impossible for families to make ends meet, and we are ready to act.

"We see how you pay your fair share of taxes while some Americans take advantage of gaping tax loopholes, and we are ready to act.

"We see how your family can be wiped out by medical bills when one member is afflicted with a serious ilness, and we are ready to act.

"We see how months of joblessness and the constant threat of layoff demoralizes your family, and we are ready to act.

"We see how your children may be denied a college education because you just can't afford the high costs, and we are ready to act."

Yes, we will develop a program of legislative action which is relevant to the needs of the average American working family and which recognizes the values of self-reliance as well as governmental incentive.

And this program will demonstrate that we don't need an abdication of Republican leadership—that we don't need a Watergate—in order to govern sensibly and fairly in the name of all the people.

What are some of the essential items on this Democratic agenda?

First, Democrats must take immediate action to preserve the hard-won economic gains that American families have earned over the years despite the frequent economic setbacks during the Nixon Administration. This means the enactment of a strong anti-recession and anti-inflation legislative package.

Something must be done to curb an inflation rate of nearly 11% coupled with an alarming decline in total industrial output.

The cruel irony of unchecked, double-digit inflation combined with rising levels of unemployment affecting millions of Americans must be halted. In order to achieve these goals I suggest Democrats in Congress consider the following measures for action:

A significant tax cut of 5 to 10 billion dollars aimed at inflation-battered lower income taxpayers, with the reduction in revenue being offset by elimination or sharp reduction of such items as the oil depletion allowance, foreign tax credits and strengthening the minimum tax.

A public employment program and an expansion in the coverage and duration of unemployment benefits. We can pay for this program by extremely modest reductions of waste in defense spending.

A new government program to make credit more readily available to consumer borrowers, small businesses (including home builders), state and local governments, and to home buyers. The inequity of soaring interest rates strikes hardest at those who can least afford it.

A permanent mechanism to administer a set of largely voluntary price-wage policies. This mechanism is badly needed as the present system of uneven and poorly managed wage and price controls comes to an end.

Limited standby authority for the President to reimpose wage and price controls on particular sectors of the economy.

Second, Democrats must take immediate action to bring equity, sanity and reform to the American tax system. The tax abuses of our President only highlight the need to act. And no other issue goes to the fundamental moral question concerning the uneven distribution of wealth in America. Our Democratic program must courageously move forward in the field of tax reform and consider the following items for action:

Elimination of various tax preferences which inordinately favor the wealthy, while also strengthening minimum tax.

Elimination or sharp reduction of special tax benefits to oil companies and to American firms operating abroad.

Enactment of Senator Mondale's proposal to allow families to substitute a $200 tax credit for the current personal exemption. This would greatly aid low income taxpayers.

Reform of the Social Security payroll tax to relieve its heavy burden on middle income wage earners.

Enactment of a comprehensive program of welfare reform which provides work incentives as well as a decent standard of living for those who need such assistance.

Third, Democrats must take immediate action to provide every American family with what it deserves in a modern, industrialized society: a system of national health insurance which would at least protect families against catastrophic illness. As health costs have skyrocketed, too many families have suffered extreme economic hardship. The enactment by Congress this session of a comprehensive national health insurance plan will go a long way toward improving a national health care system which has been marked by retrenchment and retreat.

Congress must act soon to guarantee the right of the American people to effective health care at the lowest possible cost.

And as the Congress considers this plan for health insurance it must also move to increase health care delivery and disease research budgets, expand health manpower programs, continue to enlarge our drug abuse efforts and restore reductions in the programs designed to serve the mentally and physically handicapped.

Last but not least, a system of comprehensive maternal and child health care should be enacted for the mothers and children of this nation.

Fourth, Democrats must take immediate action to develop a national energy policy. If this policy area is neglected in the future as it has been in the past, our economic situation will further deteriorate and millions of Americans will personally suffer for our inaction. With such a comprehensive policy, Congress should take action on the following energy issues:

Control oil prices to prevent excessive profits while maintaining investment incentives.

Develop a better fuel allocation system to minimize employment losses if supplies worsen.

Vertical integration in the oil industry should be reduced and ownership of multiple energy sources by one oil company should be eliminated.

A government corporation should be created to develop and produce energy resources in the public domain, and to assure their fair allocation.

An expanded and significant program of research in alternative energy sources—particularly solar energy—should be launched.

Fifth, it is essential that a Democratic-controlled Congress enact effective measures to address an increasingly severe food crisis.

At home, we are confronted with continually rising consumer food prices. Yet, our farmers face increasing production costs and limited supplies of essential materials, such as fertilizer, as well as severe constraints in moving commodities from farm to market. And our current grain reserves have dropped to their lowest levels since World War II.

Abroad, millions of people in the developing nations of the Third World face the threat of hunger and starvation, as widespread drought continues and the costs and demands of food production rise sharply.

I have called for a sound, sensible food policy to replace policies of the Nixon Administration that emphasize commodity export sales almost to the exclusion of meeting our own domestic requirements, and that leave our farmers with the threat of a "boom-and-bust" cycle of sharply fluctuating prices.

The food policy I have proposed would include, at a minimum:

Establishment of a modest food reserve program, and initiating monitoring systems on export sales, both to meet our food needs at home and to reasonably service all our export markets;

And maintaining our commodity distribution programs, utilizing the open market when surpluses are not available, to serve the crucial nutrition needs of our children, the elderly, and lower-income families.

Finally, Democrats must take immediate action to design and institute a system of long-range policy planning in Congress and in the Executive Branch. Stop-gap solutions to long-range problems are at the heart of public discontent.

American government presently has absolutely no means to identify future problems and plan solutions which go beyond the one or two year budgetary outlay. Whether in housing, transportation, agriculture, or a host of other areas we have no way to assess future needs and prepare an adequate response. We are playing catch-up ball while the crises come fast and thick.

I believe any Democratic legislative agenda must include the enactment of a Balanced National Growth and Development Act to provide government at all levels with planning mechanisms to make rational decisions on how our nation should grow and how policy makers should organize government to meet future needs.

These are some of the basic items which should be included in any list of Democratic priorities. There are many others, including the vital issue of campaign reform bolstered by strong legislation mandating public financing for all elected federal offices.

But I do not consider this brief agenda as a party platform. As we all know, platforms collect dust on library shelves. These proposals and others must see the light of day.

They must be debated and considered by the people's representatives, because they reflect the areas of concern in which Americans seek involvement, commitment and action by their government.

If Democrats in Congress develop a progressive legislative agenda, we will still have not done the job expected of us by the American people.

Until Democrats in Congress have the courage and the foresight to reform our own institution, the voters will continue to give the Legislative branch a low rating.

According to a national poll taken in 1966, 42 percent of those polled expressed "a great deal of confidence in Congress." When the same question was asked in 1973, only 21 percent responded in the same fashion. This precipitous loss of confidence is due to the

inability of Congress to act in a way to make itself worthy of trust and confidence.

To be sure, the American people are concerned with the ends of government—the programs and policies which directly affect their lives. But they also care about the means—how government is conducted and the integrity of the political and governmental processes.

A 20th century Congress cannot be content with employing 18th and 19th century techniques. If the Congress is to be taken seriously by the public and by the President, it must make itself a truly coequal and effective branch of government. Congressional reform must be a Democratic priority, and I would suggest consideration of the following steps:

Strengthen the policy making role of the Democratic Caucus in both bodies and give it the opportunity to propose a comprehensive Democratic program as well as a legislative timetable to avoid undue delay.

Establish a more formal working relationship between House and Senate Democratic leaders.

End the outmoded system of seniority and replace it with the election of Committee Chairmen in the Caucus.

Open meetings to the public of all committee sessions where legislation is voted upon, unless a majority of the Committee votes otherwise.

Televise, when appropriate, House and Senate sessions.

Initiate a thorough budget analysis process that also assures on-time funding of federal assistance programs, such as urban renewal and aid to our schools, critically needed by our states and cities.

Provide members of Congress and Committees with adequate staff to study and evaluate policies as well as assure the effective administration and funding of federal programs enacted by Congress.

These would be the first steps we should take toward reform and modernization of Congress. Election of a veto-proof Congress in 1974 will do Democrats little good unless fundamental changes are undertaken to allow Congress to do the job the American people elected it to do.

A former Democratic National Committee official, John Stewart, writing recently about our Party's future in the period from 1974 to 1976 hit the nail on the head when he said that ". . . governmental performance is the key to electoral success for the balance of the 1970's."

Those who look toward Watergate and the personal misfortunes of Richard Nixon to propel a Democrat into the White House in 1976 are deceiving themselves. In the coming months and years the American people will expect more from the Democrats than outrage at Republican scandals. The people want action and performance and the truth about the serious nature of our problems.

People ought to remember that it has been under Democratic leadership that they have pulled themselves up:

Under Roosevelt, from a Great Depression;

Under Truman, from the threat of severe post-war economic dislocation at home and major political and economic destabilization in Europe;

Under Kennedy, from a serious recession;

And under Johnson, toward implementing the ideals of hope and opportunity for all Americans.

Our people today have a right to expect the same kind of Democratic leadership.

It is up to you as Governors and to the Congress to demonstrate to the people our capacity to govern. This is the only way that we can assure the election of a Democrat as President in 1976.

MALTREATMENT OF JEWS IN SYRIA

Mr. JAVITS. Mr. President, in 1840, when ours was a small, young Nation, President Martin Van Buren protested to the mighty Ottoman Empire concerning the persecution of Jews in Damascus, now the capital of Syria but then under Turkish rule. Van Buren's Secretary of State, John Forsyth, referred to the American concern as a subject "which appeals so strongly to the universal sentiments of justice and humanity."

This enunciation of American concern is still applicable today, more than 130 years later, as the Syrian Government obliges its Jewish citizens to live in an oppressive darkness, restricted in their movements and their ability to earn even a livelihood and subject to the terror of midnight arrests and violence against their homes and families. Once again, the American conscience is aroused to the plight of the centuries-old Syrian Jewish community and the dire necessity to relieve their pitiable condition.

The New York Times of April 14 featured a news article detailing the status of Syrian Jewry, a situation which has deteriorated with the passage of time. I ask unanimous consent that this article be printed in the RECORD.

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

SYRIAN JEWS SUFFER UNDER HARSH CURBS

(By Henry Kamm)

PARIS, April 13—About 1,000 Damascus Jews are reliably reported to have streamed out of the ghetto to which they are confined to demonstrate last month against the slaying of four young Jewish women attempting to cross into Lebanon.

A similar number of other Syrians, most of them believed to be Christians, were reported to have joined the demonstration in the center of Damascus shouting demands that they be allowed to leave Syria.

Since 1947 the Syrian Government has refused to allow Jews to emigrate and has subjected the country's Jews, who number between 4,000 and 5,000, to restrictions and mistreatment.

A RELEASE FROM TERROR

The demonstration was only the second of its kind—the first in Damascus took place in August, 1972. In the view of expert sources, it represented a kind of release from the terror that has affected the 2,000 or so Damascus Jews since the Mideast war last October.

Following the demonstration, which took place in the first week of March after the burial of the four women, Syrian authorities delivered to the Jewish community of Damascus the bodies of two young men missing for six months in a similar attempt to flee the country.

The two were identified as Natan Shaya, 18 years old, and Kassam Abadi, 20. The women, whose slaying has been announced by the Syrian authorities, were Eva Saad, 18, and three sisters, Toni Zebah, 22, Laura, 23, and Farah, 24.

The Syrian announcement described the slaying of the women, whose bodies were delivered to their mothers in a sack, as the work of a band of four "murderers and smugglers"—two Jews and two Moslems who were said to have confessed. The announcement was silent on the women's unsuccessful attempt to flee Syria and on the question of what Jews were doing near the Lebanese border. A Syrian regulation restricts Jews to a radius of about three miles from the Damascus ghetto.

SCOFF AT CHARGES

One of the two Jews under arrest, Yosif Shalouah, is reliably reported to be a brother-in-law of one of the victims. A source who knows the two youths scoffs at the contention that they might be killers.

Reliable sources reported that the women had left Damascus by car with two Moslems who were supposed to guide them across the border. The men forced them into a cave in the mountainous border region, according to the account, and robbed, raped and killed them. A finger of one of the girls was chopped off, presumably to remove a ring.

Reporting on the atmosphere of fear, sources who were in Damascus during and after the October war said that Jews had remained in their houses during the 18 days of the war, rarely venturing to the edge of the ghetto to buy food.

After the fighting ended, Palestinian refugees who for years have been assaulting Jews on the street were frequently joined by Syrians who claimed revenge against the Jews for Syrian casualties caused by Israel.

As a result, the Jews of Damascus walk the streets even more rarely than before the war, and many go to work only occasionally. The desire to leave the country, according to the source, has become the almost exclusive subject of conversation.

Although communications between the three Jewish communities in Syria is meager because of the nearly total ban on internal travel, a refusal to allow Jews to have telephones and mail censorship, the atmosphere in the communities in Aleppo and El Qamishliye, near the Turkish border, was said to be similarly fearful.

In Damascus, on each street leading out of the ghetto Moslem shopkeepers keep a watch on comings and goings. While outwardly on good terms with the Jews, who are their customers, they are believed to fulfill the role of police informers.

Surveillance is intensified with frequent summonses for Jews to appear before military intelligence for long interrogations.

A 10 P.M. curfew for Jews is strictly enforced. In El Qamishliye 24-hour curfews have been imposed on occasions.

Jews are forbidden to work in the Government, in nationally owned enterprises or in banks. State employes and members of the military are reminded by notices displayed in many offices that they may not buy from Jews.

Jews live largely by manufacturing in family workshops silver and copper articles that are sold in the souvenir shops of the souk, or ancient covered market, where they are not allowed to own shops themselves.

Many of the teen-age boys and girls work in a Jewish-owned clothing factory that is reported to manufacture uniforms for the Syrian Army.

When the head of a Jewish family dies, his property is forfeited to the state and even members of his family may not remain in their house without paying rent to the state.

A handful of favored Jews have been allowed to live outside the Damascus ghetto and have been exempted from some of the restrictions.

Mr. JAVITS. Mr. President, I have urged Secretary of State Kissinger to utilize the good offices of the United States in an effort to alleviate this situation. Such an effort is in the best traditions of our Republic and consistent with well-established American policy of long standing. I feel certain that the con-

science of this Nation has not abated since the Van Buren protest of 1840.

FOURTH REPLENISHMENT TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. McGEE. Mr. President, the U.S. Catholic Conference, through its spokesman, the Most Reverend James S. Rausch, has submitted a very moving statement to the Senate Committee on Foreign Relations, expressing the organization's support for the fourth replenishment to the International Development Association.

This statement represents what I believe to be the best in our Nation's moral and intellectual fiber. It is a very important analysis of the ramifications involved in the Senate's consideration of the IDA replenishment legislation.

I ask unanimous consent that this statement be printed in the RECORD.

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

STATEMENT OF REV. JAMES S. RAUSCH ON S. 2665, APRIL 5, 1974

The issue put before the U.C. Congress and the American people by the International Development Association authorization is multidimensional. The technical details of the authorization, the use of the funds involved and the conditions surrounding the participation by the United States in the I.D.A. program have been explored in the House and by witnesses appearing before the Senate Foreign Relations Committee. Rather than rehearse the same technical data, I wish to focus on two broader, less technical, aspects of our role in the I.D.A. program. One aspect concerns the character of the international system in which we live; the second concerns the domestic support for foreign assistance of the type represented by the I.D.A. program of the World Bank.

First, I wish to illustrate the significance of the I.D.A. legislation in light of some basic trends existing in the international system today. These trends keep pointing to a central characteristic: we live in an increasingly interdependent world, a world becoming more materially interdependent each day. By interdependence I mean two things: first, we are linked together so that we touch each other's lives in human terms across state boundaries, across regions, across continents more directly than at any other period of human history; secondly, we live in a limited world, characterized by shrinking resources, finite limits to growth and the need to look at both our productive processes and consumptive habits. Material interdependence, a linked and limited existence in the globe, is manifested in economic relations, technological and communications systems, even in the strategy of deterrence where the superpowers "depend upon" the rationality of the adversary to avoid nuclear war. Material interdependence, however, is an ambiguous reality: it can be a cause of chaos or an invitation to community in the globe. The margin of difference depends upon whether we can develop the sense and strategy of responsibility for each other which interdependence requires. In brief, the challenge before us is whether we can move from material interdependence to moral interdependence. Moral interdependence means developing both the psychological awareness and the political relationship which brings us to choose interdependence as a way of life rather than simply having it forced upon us as a fate.

The I.D.A. authorization places the question of moral interdependence directly before the Congress, the churches, and our shared constituency, the American people. If one aspect of material interdependence is the problem of limited resources, then the correlative aspect of moral interdependence is the question of distribution of resources in the globe. How are we going to organize the distribution of resources when they are in short supply? The I.D.A. authorization presents an early test in this newly interdependent age of how Americans are going to answer this question. The I.D.A. program seeks to provide one institutional means in the international order of procuring a minimal share of essential resources like food and water for the very poorest members of the global family. The poor nations served by the I.D.A. funds contain precisely those people who because of their critical need for the most basic necessities of life lay the greatest claim upon the consciences of the rest of the globe. The force of this claim stems not only from the fact that the resources they need are in limited supply, but also from the other aspect of interdependence, their needs are linked to our decisions. How we decide on I.D.A., for example, will determine at least in some measure, the shape of resources which these nations will receive in the next four years. In an interdependent world we cannot escape the responsibility which flows from our ability to directly influence the lives of each other on questions of distribution of the goods of the earth.

To state the fact of material interdependence and moral responsibility is, however, only the first step in probing the question of distributive justice in an interdependent world. The essence of the question is the need to balance competing claims placed before us as a nation. Mr. McNamara has termed this judgment the need to adjudicate the claims of absolute poverty in the developing world against the relative poverty which we still find in our own country and in other developed nations. There is no sense politically or ethically in simply stressing the conditions of absolute poverty in the world without recognizing that part of the question I.D.A. places before us is that legislators and plain people in our country face intractable problems of inflation; shortages and hardcore poverty in our midst.

Yet, it is precisely in the face of these competing claims upon us that I am arguing in this testimony that we should support the I.D.A. authorization and not default on our international commitments. I support this authorization for two reasons: first, to default on our commitments means in the moral order that we shall know in the coming four years that a certain number of nameless and faceless people will die partly as a result of our decision not to share limited resources in an interdependent world; secondly, to refuse to share when we are in control of scarce resources works against our own long-term interest—we set a precedent which others, controlling resources which we need, can simply follow in reciprocal fashion.

How shall we decide when faced with competing claims of absolute and relative need? This question is at the heart of the domestic issue. How Congress decides is in part dependent upon how legislators perceive the way in which their constituents are deciding. The theme was very visible in the House debt on I.D.A. Again and again the theme surfaced that a legislator could not face his constituency after voting to send 1.5 billion dollars out of the country in a time of domestic inflation and unemployment. To face this question clearly I think it is necessary to distinguish between the instinctive reaction of our constituencies and the informed reaction of the same people. In times of domestic shortages the instinctive reaction of any of us is not to share widely the short supplies we have to meet our own needs. But the central question is whether this instinctive reaction would prevail if the concrete facts of absolute versus relative poverty were made known in a forceful way. For example, every housewife in America knows there is a food crisis because of what she presently has to pay for a loaf of bread. Few, however, have ever heard of what the food crisis means for many in the six Sahelian countries—absolute starvation. Few have heard what it means in other developing nations when the need to pay increasing costs for oil has undercut funds needed for other absolutely essential resources like food and health care and rural development projects.

My point is not to contrast in detail the elements of absolute and relative poverty, but to say that part of assessing the domestic willingness to share or distribute scarce resources in an interdependent world depends upon whether the specifics of poverty here and in other places are known to the American electorate. For my part, I do not think the specifics are known and for this the churches must assume a good part of the blame; on a central moral problem of our day we have not yet communicated the issues to our own constituencies.

This approach argues for a kind of preparation of people that cannot happen before the vote on I.D.A. is taken. What I am saying is that the need for leadership on this question does not rest with Congress alone, but it does rest with Congress in a unique way. The task before Congress is to take the lead in its way on I.D.A. by voting the needed funds; the task for others like the churches is to provide the means of moving from instinctive response to informed response. Congressmen interacting with their constituents, of course, will be part of this informing process. I believe the process will receive a hearing, a sufficient hearing to dispel the doubts expressed in the House debate. For my part, I think that debate underestimated the latent potential of the American people for justice. I hope the Senate will give us all a chance to demonstrate our support for the idea of moral interdependence by voting the needed authorization for the I.D.A.

REFORM OF FEDERAL PRISON INDUSTRIES: NEW OPPORTUNITIES FOR PUBLIC OFFENDERS

Mr. PERCY. Mr. President, a publication which should be of interest to every individual concerned about our criminal justice system has issued its first volume. The Justice System Journal will be published three times a year by the Institute for Court Management. Its goal is to transcend the compartmentalization of specialties within the criminal justice system. This is a need I have been keenly aware of for many years. I have often repeated the conclusion of the National Commission on the Causes and Prevention of Violence that the criminal justice system is less of a system and more of a process. The different component parts of the process rarely act in a systematic or coordinated fashion. Instead, they tend to fall prey to tunnel vision, resulting in duplication of effort, and often ignoring significant inroads in other parts of the process which can have a significant impact on every part of the process.

By trying to bridge this gap, the Justice System Journal will help the dif-

ferent parts of the process become aware of each other, and thus make the first necessary step toward transforming this process into a system.

The first volume contains an excellent article, "Reform of Federal Prison Industries: New Opportunities for Public Offenders," by Neal Miller and Walter Jensen, Jr. It deals with a subject which I have been deeply involved in, and in regard to which Senators BAKER, BROCK, HUMPHREY, MATHIAS, MOSS, TAFT, and I have introduced S. 2161. One of the authors, Neal Miller, a former consultant to the American Bar Association Commission on Correctional Facilities and Services, has been most helpful to me and my staff in our efforts to comprehend the legal and historical complexity of the issue of prison industries. He served as a valued adviser as we fashioned the language of S. 2161.

Mr. President, this very comprehensive and enlightening article puts the whole issue of prison industries—its history, its present legal status, and its potential future—in proper perspective. I ask unanimous consent that the article be printed in the RECORD.

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

REFORM OF FEDERAL PRISON INDUSTRIES: NEW OPPORTUNITIES FOR PUBLIC OFFENDERS

(By Neal Miller* and Walter Jensen, Jr.**)

INTRODUCTION

Correctional processes in the United States are today in the midst of change. Approximately 95 percent or more of all offenders who are convicted of serious crimes and are thereafter sent to penal or correctional institutions eventually return to society, most often as hardened criminals.[1] Therefore, it is obvious that our correctional institutions have, for the most part, failed to achieve society's objectives. Currently, approximately 50 to 80 percent of all crimes are committed by persons who have spent time in our criminal justice system. Almost 50 percent of all serious crimes are committed by persons who have previously been convicted of a criminal offense.[2] The rate of recidivism for persons on parole is about 61 percent; for persons under mandatory release, 75 percent; and for those on probation, 56 percent,[3] notwithstanding the fact that more than two billion dollars is being spent each year on an outdated, ineffective correctional system.

Recidivism, which lies at the roots of the nation's perplexing crime problem, frustrates current efforts to reintegrate[4] former public offenders into society. When two out of every three offenders return to a life of crime,[5] as is thought to be the case today, then bold, innovative programs are nedeed to reverse this trend. A number of imaginative proposals to restructure the system of criminal justice in the United States have been introduced into Congress.

This paper explores the use of prison industries as a means to rehabilitate offenders so that they can return to society as productive, useful citizens. Therefore, it will describe and analyze the following principal areas of concern: (1) the evolution of legal restrictions on the sale of prison-made goods and on the employment of inmate labor in competition with free market labor and goods; (2) the modification of the existing prison industries structure to achieve the objectives of correctional reform, to reduce recidivism and to effectively reintegrate the ex-offender as a productive member of society; (3) an examination of recent legislative proposals designed to restructure the current system of employment of offenders; and (4) an analysis of the strengths and weaknesses of today's prison industries and the authors' suggestions as to how they can be improved.

EVOLUTION OF LEGAL RESTRICTIONS ON PRISON LABOR

It must be recognized that any serious efforts to change the framework of prison industries as it exists today is dependent upon the willingness of lawmakers, judges, and society to modify or repeal a large number of current statutes and constitutional prohibitions which are designed to restrict the use of inmate labor and the distribution of prison-made products. The bulk of this restrictive legislation was enacted before the early part of the twentieth century. As a result, the sale of prison-made goods on the free market in open competition with private industry had, for the most part, ceased to exist by 1940. A general policy of opposition to the use of prison labor and products is also reflected in recent legislation and judicial decisions, emphasizing the fact that the problem is one of a recurring nature.

The state-use system

The "state-use system" which is, by far, the most prevalent policy in this country today with respect to the employment of prison labor, had its origins in New York in 1842. It developed in response to labor practices which many persons, manufacturers and labor groups deemed to be unfair competition. Pursuant to the "state-use system," state authorities not only control the employment and activities of prisoners, but also restrict the sale of prison-made goods to governmental agencies. The "state-use system" gradually superseded a number of other competing employment systems.[6]

In the latter part of the eighteenth century and the early part of the nineteenth century, two competing philosophies of penal discipline developed: (1) the Pennsylvania system, which emphasized prayer, meditation and solitary confinement under conditions whereby the prisoners were not actively employed on a full-time basis, and (2) the Auburn system, which provided full-time work during the day and confinement at night. The Auburn system was so successful that it soon became the dominant correctional theme in this country, most likely because the industrial revolution expanded the use of machinery and created a demand for new sources of labor.[7] The financial successes of the Auburn system, however, generated complaints from free workers that the use of convict labor resulted in unemployment and created an unfair source of competition. Complaints such as these culminated in prohibitory legislation in New York which formed the basis of the state-use system. Restrictive laws, such as those described below, reduced the percentage of persons employed in productive labor from 75 percent in 1885 to 44 percent in 1940.[8]

An unfair source of competition

Many of the current legal impediments to employment of ex-offenders in private industry and to the use of prison-made goods and convict labor had their origins in laws which were enacted decades ago under conditions which were quite different from those which exist today. Historically, prison labor had been exploited by private industry which was able to contract for the services of inmates at a cost that was far below its market value. Convict labor was used in direct competition with free market labor, to the latter's distinct disadvantage. Prison-made goods were sold on the open market at such a low cost that competitive industries, compelled to pay prevailing wage rates, were unable to compete effectively. Moreover, inmates were often the victims of abusive practices designed to exploit a cheap source of labor.[9] As might be expected, demands to forbid the use of prison-made goods and to restrict the use of convict labor led to enactment of legal barriers designed to minimize the economic effect of what was generally regarded to be an unfair source of competition.[10] Unionized labor found natural allies among industrial and agricultural interests that also feared and distrusted these new competitors. Although the motivation for such legal proscriptions is understandable, an unfortunate result was the erection of formidable legal barriers to the effective assimilation of ex-offenders into society. The removal of these legal prohibitions is regarded by many persons as an essential prerequisite to the operation of a successful prison industries scheme.

Federal legislation

Restrictions upon the use of convict labor and the sale of prison-made goods are found not only in federal and state statutes but also in the constitutions of a number of states. Among these prohibitory laws, federal statutes and a Presidential executive order have had the most significant effect, although state statutory and constitutional proscriptions have also had an impact upon the employment status of prisoners.

Federal prohibitory legislation and an executive order can be categorized as follows: (1) Goods manufactured by prison labor cannot be sold or distributed in interstate commerce[11] if the state of destination, by statute or constitutional provision, forbids their importation.[12] (2) Prison labor cannot ordinarily be used to fulfill federal government contracts.[13] (3) Inmate labor cannot be used as an integral part of highway[14] or airport[15] construction, unless the offenders employed in such projects are on parole or probation. (4) The Postmaster General is forbidden by law to purchase supplies and equipment manufactured by inmate labor for use in the postal service.[16] (5) With the exception of products manufactured by prisoners on parole or probation, all packages which contain goods produced by prison labor, if distributed through interstate commerce, must be clearly labelled as prison-made goods.[17] (6) Such goods are exempted from a wide range of products purchased pursuant to federal government procurement policies intended to encourage the employment of the blind and other handicapped persons.[18] (7) Foreign-made goods cannot be imported into the United States if they were manufactured by forced labor or by penal sanctions.[19] (8) A Presidential executive order forbids the use of prison labor in all contracts made by or on behalf of the United States Government.[20] (9) The Social Security Act defines employment to exclude prisoners in the District of Columbia and also excludes inmates in a federal penal institution from coverage as employees of a state.[21] Federal agencies are required to purchase prison-made goods from federal penal institutions for governmental use when the prices are comparable to those available on the free market.[22]

Federal Prison Industries, Inc.

Federal Prison Industries, Inc., a governmental corporation of the United States, was chartered in 1934 to provide employment and training for prisoners incarcerated in federal correctional institutions. Its board of directors was instructed, by statute, to: (1) provide employment for all physically fit inmates of all federal penal and correctional institu-

Footnotes at end of article.

tions, (2) diversify prison industrial operations, (3) reduce the burden of competition from prison-made goods as much as possible so that no single private industry would be compelled to bear a disproportionate burden of competition, and (4) minimize competition with free labor and private industry.[23] Its board of directors is also empowered to determine the manner and extent to which industrial operations are conducted in federal penal and correctional institutions to produce commodities to be consumed in such institutions or to be sold to agencies and departments of the United States Government. However, prison-made goods should not be made for sale to the general public in competition with private enterprise. Prison industries established pursuant to this statute are not permitted to curtail the production of other government workshops, arsenals, and navy yards. Industries may be established either within the confines of a penal or correctional institution or in any other "convenient locality" where an existing property can be obtained by purchase or lease.[24]

Employment of prison labor in federal correctional institutions

Federal departments, agencies and institutions are directed to purchase available prison-made products which meet their requirements, provided no more than the current market price is paid for them.[25] The Attorney General is empowered to make prisoners available to aid in the construction or repair of roads, in the maintenance, clearing and reforestation of public lands, in the construction of levees, and in the repair or construction of other public works which are financed by federal funds.[26] However, inmate labor cannot be employed to construct state highways located on a federal-aid system unless these convicts are on parole or probation.[27] Military correctional facilities are, by statute, authorized to usefully employ offenders in the best interests of their health and reformation so that they can be restored to active duty or returned to civilian life. Military supplies can be made and repaired at these sites, if economically feasible.[28] The establishment, control and management of federal correctional and penal institutions, except those of a military or naval character, are vested in the Attorney General.[29] Federal prisoners may be imprisoned in state institutions or in those of a political subdivision of a state for a period not to exceed three years. Such inmates may be employed only in the manufacture of commodities and supplies for the maintenance and care of these institutions or in the construction of public works relating thereto.[30] The Attorney General is also authorized to extend the limits of the place of confinement of a prisoner on work release so that he may be properly employed in the community for a period not to exceed thirty days, provided that: (1) community work or training is conducted on a purely voluntary basis, (2) local union representatives are consulted, (3) such paid employment will not displace local workers or be used in trades, skills or crafts where a surplus of labor exists or interferes with existing service contracts, and (4) the rates of pay are not less than the prevailing wage rate in the locality. Prisoners working in the community are required to pay into the United States Treasury a reasonable portion of their earnings incidental to the costs of their confinement.[31]

State restrictions

State restrictions on the sale and distribution of prison-made goods and on the employment of prison labor usually take the form of constitutional or statutory prohibitions designed to limit the sale of such products so that competition with privately manufactured goods and commodities can be minimized. State statutory restrictions follow diverse patterns, but in general they: (1) require that the origin of prison-made goods be clearly marked or labelled, (2) impose a duty on persons who buy and sell goods of prison origin to obtain a license to do business, (3) prescribe a special tax or duty for prison-made goods, (4) allow goods manufactured in penal institutions and commodities grown on prison farms to be sold to that state's institutions, agencies and governmental bodies, and (5) restrict the entry of prison-made goods from other states, while permitting the sale and use of goods made in local correctional or penal institutions. Statutes of the latter type have been declared to be an unconstitutional burden on interstate commerce. In enacting such prohibitory legislation, states typically relied upon the police power, maintaining that the sale of prison-made goods and commodities in competition with goods manufactured by the free sector of the economy unlawfully infringed upon the health, safety or general welfare of its citizens.[32] Similarly, it was argued, the employment of convict labor to grow commodities on privately owned farms or to bolster the labor force in industrial or manufacturing concerns could result in a source of unfair competition to free labor sources. In view of the prevailing attitudes critical of the sale of prison-made goods and the employment of inmate labor, it was not surprising that the federal government sought to aid the states in their efforts to restrict the free flow of convict-made goods. The Hawes-Cooper Act,[33] mentioned above, did not forbid the transportation of convict-made goods in interstate commerce but instead provided that such shipments shall lose their interstate character upon arrival at their destination; hence such goods can be regulated by state laws in the same manner as though they had been manufactured in that state initially. The constitutionality of the Hawes-Cooper Act was subsequently upheld in spite of objections that it constituted an unlawful delegation of congressional legislative power to the states.[34]

The courts have held that there is nothing inherently wrong with goods manufactured in whole or in part with prison labor, nor are such goods or commodities of such a character that their sale to the general public without being clearly labelled as "prison-made" would constitute a fraudulent or deceptive practice.[35] Goods made by convict labor are proper subjects of interstate commerce and cannot lawfully be discriminated against. Neither state nor federal governments have the power to forbid the shipment, in interstate or intrastate commerce, of convict-made goods since such goods and commodities are lawful subjects of commerce; hence in the past, outright prohibitions of prison-made goods in commerce have usually been struck down by the courts.[36]

Statutes requiring that goods manufactured by prison labor be clearly labelled as "prison-made" when shipped in interstate commerce have been upheld by the courts even though such restrictions are not imposed upon similar goods manufactured on the free market.[37] State statutes which impose labelling requirements such as these on all prison-made goods and commodities originating outside the state but do not similarly restrict convict-made products of local origin have, however, been struck down by the courts as an unlawful discrimination against interstate commerce.[38] An Ohio statute which required persons offering convict-made goods manufactured outside the state to first obtain a license but did not require a license to sell goods made in the state of Ohio was held to be an unlawful attempt to discourage importation of prison-made goods into the state to protect domestic citizens, laborers and markets from competition. The court recognized the reserved power of the several states to protect the health and welfare of their citizens but said that convict-made goods are proper subjects of interstate commerce entitled to be protected against discrimination.[39] Labelling statutes have been enforced against state officers such as wardens of state correction agencies in spite of sovereign immunity objections to suits of this kind.[40]

State statutes restricting the sale of prison-made goods or commodities have occasionally been struck down by the courts as an unconstitutional impairment of the obligation of contracts. A Colorado statute which forbade the sale of products of state reformatory and penal institutions in competition with similar products produced by free labor was held to violate the federal constitutional provision that no state shall impair the obligation of contracts. Colorado prison authorities had previously entered into contracts with private persons for the lease of land on which inmates would work, and the commodities produced were sold to state governmental departments and on the open market.[41] Similar statutes which authorize the manufacture of prison-made goods for sale on the open market have been upheld by the courts. An Indiana statute that authorized state reformatories, prisons and farms to manufacture articles for the use of state institutions and agencies and to sell the surplus on the open market was sustained by the courts even though prison-made floral baskets were sold almost entirely on the open market rather than to state institutions and agencies.[42]

In a recent case, the use of prison labor on private farms during periods of labor shortages was contested by union members who argued that they would suffer irreparable harm if inmates were allowed to harvest California's grape and fig crops, even though inmates were paid at prevailing wage rates on a piece-work basis.[43] The court held that the use of prison labor to harvest crops was not done to rehabilitate the prisoners but rather was intended primarily to furnish convict labor for the use of private growers, in violation of the California constitution.[44]

Although convict labor directly competes with free market labor, this fact does not justify unreasonable limitations upon the use of inmate labor. Successful rehabilitation requires that prisoners receive training in all basic skills which are needed to obtain suitable jobs on the free labor market after their release. Even though the use of convict labor might, perhaps, create a hardship for free market labor, the law does not afford an appropriate remedy.[45] Although the welfare of both inmates and the general population are proper subjects for legislation,[46] the crucial problem that legislation should address is the exploitation of prison labor and its use in such a manner that it becomes unfair competition to free market labor.

With the exceptions of Alaska, Delaware, Maine, Massachusetts, Mississippi and Nevada, all the states have restrictions prohibiting the sale of prison-made goods on the open market in free and open competition with goods manufactured in the private sector. Massachusetts has only recently repealed its state prohibitions.[47]

In 1973, the Minnesota legislature enacted a statute which authorizes the establishment of private industry on the grounds of state correctional institutions for the manufacture and processing of products, goods and

Footnotes at end of article.

merchandise.[48] Factories established pursuant to this statute are regarded by law as private corporations, and all products manufactured are exempted from other state provisions which forbid the sale of goods produced in whole or in part by inmate labor.[49] Inmates conditionally released by the state adult corrections commission and the youth conservation commission for purposes of employment in private industry or to participate in community vocational programs[50] and parolees[51] may be employed.

The recently modified correctional code in Illinois permits nonprofit corporations to purchase prison-made goods but retains its general prohibitions against others purchasing convict-made goods.[52] With these exceptions, states generally do not permit the sale of prison-made goods to outside purchasers, but rather restrict their sale to the use of state agencies and institutions.

INADEQUACIES OF TODAY'S PRISON INDUSTRIES

Persons who are confined in penal or correctional institutions or who are on parole or probation must be regarded as a source of manpower to be utilized by society for its own needs as well as for rehabilitation of the individuals concerned. Past experience of the Federal Bureau of Prisons has demonstrated that prison labor can be utilized effectively as a manpower resource. However, the role of correctional industries has remained relatively unchanged for more than forty years and today is characterized by: (1) the employment of inmates in unskilled jobs or in prison maintenance tasks, (2) the manufacture of products which are purchased solely by governmental institutions and agencies, (3) low-level occupational training for inmates in trades which are typically not in demand by the free labor market, and (4) the operation of prison industries in such a manner that competition with private industries and private labor sources will be kept to a minimum.[53] In addition, prison industries are compelled to function within an economic system that imposes constraints upon their effective operation, such as (a) restricted markets for prison products and labor, (b) the employment of a large labor force with relatively low levels of productivity, (c) a lack of effective capital with which to modernize obsolescent equipment, (d) the employment of persons who lack ordinary job skills, education, training, motivation and proper work habits, and (e) a high degree of labor turnover which tends to frustrate long-range educational endeavors and job skill training programs.[54] At the same time, prison administrators are under pressure to keep the inmates busy, even though adequate work outlets for prison labor might not exist. The labor supply is relatively constant, since inmates cannot ordinarily leave the premises; hence industrial supervisors are not able to adjust the labor force to actual needs. The entire prison operation tends to lack proper incentives, production goals, worker efficiency and modern managerial motivation and direction.

Legal restrictions on the kinds of goods which prison industries can produce and the markets in which they can be sold also tend to minimize the quality and character of an inmate's work experience. The free labor market, for example, has relatively little demand for persons trained in the manufacture of license plates, bookbinding or furniture refinishing. The quality of workmanship of prison-made goods is substantially inferior to those made by free market labor. Materials, power and equipment are typically wasted, and worker idleness is highly prevalent.[55]

Footnotes at end of article.

The employment of prisoners in penal and correctional institutions has traditionally represented a compromise between the wishes of correctional officials on the one hand and the needs of society on the other. To reduce the budgetary costs of prisons, inmate labor is widely used in maintenance tasks such as the repair of prison equipment, in janitorial, cooking and laundry services, and in administrative and clerical jobs. Inmates employed solely in maintenance tasks ordinarily do not receive sufficient vocational training and experience while in prison to afford a reasonable opportunity to obtain satisfactory employment upon discharge. Correctional officials often look upon prison labor as a surplus commodity, to be used as lavishly as needed to maintain a smoothly functional institution so that maintenance and other costs can be kept to a minimum. Because of this, many prisons are characterized by worker indifference, low productivity, minimal pay levels, inadequate equipment, and inefficient allocation of resources.[56]

Education and training

Prison industries generally do not provide inmates with training, experience, education and skills with which they can effectively compete in the free labor market upon release.[57] Prisoners typically are not given a choice as to their job assignment, wages are usually measured in cents rather than in dollars, and much of their work experience is not only degrading, but also is not truly relevant to the needs of the free labor market.[58] Job assignments, which tend to be made without regard to an inmate's previous training and experience, emphasize considerations such as seniority, cooperation with correctional personnel, the length of time remaining in an inmate's sentence, and race.[59] Because of these and other factors, prisoners have few incentives other than attempting to obtain early release through parole or to achieve short-term benefits in the form of favorable treatment by correctional authorities during their terms of imprisonment. Similarly, prison administrators employ a large number of inmates in prison maintenance tasks to lower costs to an absolute minimum, in accordance with the wishes of society to reduce the overall tax burden.

Administrators' efforts to improve the quality of vocational programs and training are often handicapped by the fact that many prisoners have been sentenced to prison for relatively short periods. Hence, the kind and quality of job training provided is usually dictated by the length of time an inmate must remain in prison rather than on considerations of his job preference, aptitudes, abilities and the free market's need for job skills of this kind after release. The duration of an inmate's sentence is especially important in job training endeavors which require long periods to provide basic educational skills. Prisoners who are relatively young and can therefore benefit by having received basic educational training often are denied such advantages because their sentences are of short duration. Similarly, older prisoners and others serving long sentences typically are denied remedial education, most likely because some correctional officers believe that it would tend to benefit them the least. In contrast, the authors suggest that prisoners confined for relatively short sentences can still benefit from properly conducted vocational programs.[60] The prevalence of obsolescent equipment and antiquated production techniques in many federal and state prisons exacerbates the artificial quality of the job training, skills and experience which inmates typically receive.

The work ethic

With respect to the rehabilitation of prisoners and the reduction of recidivism, perhaps the most important single factor in the achievement of a successful corrections program is an opportunity for offenders to work in a job, trade or occupation of their own choosing. Although any structured work program which provides skills, education, experience and training in marketable trades or occupations would be invaluable to inmates, perhaps equally important is an ability to get along with co-workers and a proper attitude toward itself.[61] Previous successful employment is a principal rehabilitative factor in the success of ex-offenders after their release from confinement. According to two recent studies on the relationship between vocational training while in prison and success in the free labor market upon discharge from confinement, it was discovered that: (1) The regularity of employment patterns is more significant to post-release job success than the type of work actually performed. (2) Most of the prisoners studied had not engaged in a pattern of continuous work for even such a short period of time as twelve months. (3) Employment in the free labor market after release does not ordinarily include a job skill which required a substantial amount of previous training or education. (4) For those persons who acquired skills and training while in confinement, however, their work experience proved to be a significant factor in their overall rehabilitation. (5) Employment while in prison and after release from confinement is directly correlated with patterns of recidivism. (6) With respect to post-release employment success, the achievement of regular work habits and a favorable attitude toward work itself seemed to be even more important than an acquisition of job skills and training during confinement.[62] The existence of a close relationship between a carefully structured work program and the achievement of the ultimate goal of rehabilitation for offenders and their reintegration into society is generally accepted by most writers who have examined the problem in depth. In spite of these considerations, a genuine work experience comparable to that received by free market employees is not being provided to inmates; rather, an environment of idleness, with all its concomitant disadvantages, is so prevalent on both state and federal levels that it substantially impedes the effective operation of a successful program of rehabilitation.

Unfortunately, the period of idleness during an inmate's confinement does not cease after he has been discharged from prison. Former public offenders have an unemployment rate that is four or five times greater than the general populace, their salaries are considerably lower than the free market labor force, and most former inmates are employed in unskilled or semi-skilled, but generally low-paying jobs. Especially oppressed are former inmates who, like their nonoffender equivalents, are poorly educated, lacking in job skills, the very young and older applicants, unmarried, blacks and other racial minority groups.[63]

LEGISLATIVE PROPOSALS FOR REFORM OF PRISON INDUSTRIES

A legislative proposal designed to reform the existing prison industries scheme has been introduced into Congress by Senator Charles Percy (R. Ill.) as the Offender Employment and Training Act.[64] The Act is intended to modernize and reorganize existing prison industries and to coordinate federal and state efforts.[65]

Senator Percy's legislation would authorize Federal Prison Industries to contract with businesses, corporations or other private groups to establish factories or projects within federal prison walls, or perhaps nearby, for the purpose of employing or training offenders. Provision is made for supportive

services for offenders such as training, education, counselling and aftercare. Federal Prison Industries is authorized to make loans, not to exceed 6% annually, to any corporation, association, labor organization, private nonprofit organization or federal agency associated with penal or correctional institutions for the purpose of employment and training of inmates. Prisoners would receive training in the manufacture of marketable products which could then be sold in competition with goods made by private industry using free market labor. Federal restrictions on the sale and distribution of prison-made goods and on the employment of inmate labor in direct competition with free market labor would be repealed or modified. Accordingly, the legislation proposes certain conditions which would have to be met before these restrictions are removed: (1) A private employer seeking to qualify under the Act would have to agree to pay the offender-employee a wage comparable to prevailing wages paid for work or training in the locality where the work is to be performed. (2) The offender-employee's wages would be subject to federal and state taxes and social security charges; he would pay the reasonable costs incidental to his confinement, and support for his dependents would be deducted. (3) The offender-employee would be required to contribute not more than 10 percent of his wages to a fund to be established by law to compensate victims of crime. Participation in the program by offender-employees would be voluntary, and they would have to agree to these conditions in advance. In essence, the plan would treat the offender-employee substantially like any free-market worker and would subject his wages to the same deductions as the latter's wages. The only principal difference is that the offender-employee would be required to help compensate the victims of crime. The money remaining after these deductions are made, if any, would be paid into a special account to be saved for his use after release.

State participation in this federal program requires that prison-made goods be allowed to enter freely from other states. To participate, many states will have to amend their existing legislation to permit intrastate and interstate sales of inmate-produced goods of nonlocal origin. The proposed legislation also contains several provisions which are designed to finance the program, to safeguard the funds set aside for the offender-employee's use, and to forestall any unauthorized use of funds. A Federal Employment and Training Fund is to be created, and all moneys covered by the act are to be earmarked for this Fund and paid into the federal Treasury. Proceeds received from the sale of any products or goods manufactured pursuant to this plan and rentals in connection with leases made with private industry are to be paid into this Fund. The federal government would appropriate not less than 10 million dollars for fiscal year 1974 and for each year thereafter to enable the plan to be put into operation. The Comptroller General of the United States would be required to conduct periodic audits of expenditures of funds.

The act also amends a restriction in the Social Security Act, mentioned above, which defines "employment" to exclude service performed by an inmate in a federal penal institution[66] and deletes a clause in the Internal Revenue Code which excludes from the term "employment" any service performed by an inmate in a federal penal institution.[67]

When introducing the measure, Senator Percy emphasized that care would be taken not to train workers in jobs for which little or no demand exists in the free labor market. The proposed legislation was not intended to make it more difficult for veterans, racial minorities and others to obtain employment. Significantly, the new legislation is not intended to make the federal government an employer in this new prison program; rather, the private sector of the economy would be encouraged to participate in the general training, employment and rehabilitation of offenders so that they can return to the outside world as productive, responsible citizens.[68]

Part Two of the proposed legislation authorizes the Attorney General of the United States to make contracts and agreements designed to financially assist state representatives in establishing programs for the training and employment of offenders in state penal or correctional institutions. Products manufactured pursuant to this program are exempted from federal statutes which impose fines and prison terms for persons who knowingly transport prison-made goods in interstate commerce.[69]

Congressman Edward R. Roybal (D. Calif) introduced two companion bills into the House of Representatives recently which would modify the employment status of prisoners. The first bill[70] would amend Title II of the Social Security Act to permit coverage under old-age, disability and survivors insurance programs with respect to services performed by prisoners in state and local penal, correctional and mental institutions. The bill provides that inmates will be deemed to be receiving compensation at minimum wage levels in accordance with the Fair Labor Standards Act,[71] and such compensation will be regarded as wages. The second bill[72] provides that persons confined in federal, state and local correctional and mental health institutions who are employed during their confinement shall receive as compensation not less than the highest minimum wage rate in effect under the Fair Labor Standards Act. Offenders would also receive time and one-half pay for all employment in excess of forty hours during any seven-day period. If enacted, these two bills would make significant changes in the employment status of prisoners. Under the present system, remuneration received by inmates while employed in correctional institutions is not regarded as wages but rather is treated as a gratuity; hence no federal income tax is ordinarily paid on these sums. By designating these sums as wages, social security benefits which are currently denied to prisoners would be extended to them and would help to remedy an extremely inequitable situation. Moreover, benefits of the minimum wage law and its overtime provisions would accrue to prisoners engaged in gainful employment.

ANALYSIS AND CONCLUDING REMARKS

Today's prison industries can be transformed into competitive, efficient economic units only by farsighted, systematic reform measures. Mere tinkering with the current system will not only fail to accomplish needed changes but also might exacerbate existing difficulties. Only scant evidence exists to support the contention that prison industries operate effectively not only in monetary and economic terms but in sociological and human terms as well. Although prison industries cannot be realistically considered as a microcosm of free world industrial organizations due to the unique chracter of their labor supply, managerial staff, obsolescent plant and equipment, and limited market outlets, the potential to create viable, effective economic units nonetheless does exist. A central problem which must be solved is the manner in which free market expertise can be brought to bear to overhaul the present antiquated arrangement. The authors suggest that the most pragmatic approach to the problem is to completely restructure the current system by which public offenders are employed, trained, educated and released to the free world. What is needed is a bold, imaginative approach that does not hesitate to discard those aspects of today's prison industries scheme which have been proven to be unworkable, ineffectual or too costly in economic and human terms while retaining its favorable features in a new or modified form. If such changes and modifications result in the demise of the prison industries framework as it is known today, then society must be encouraged to face reality and accept this result.

Total expenditures for the nation's criminal justice system exceed $10.5 billion annually, whereas federal, state and local expenditures for corrections surpass 2 billion.[73] When welfare charges[74] for prisoners' families are added to this massive outlay, the total costs represent an enormous drain on the country's resources. Such massive outlays cannot be justified unless adequate returns to society are clearly demonstrated.

An overhaul of the nation's prison industries cannot realistically be considered apart from other aspects of general correctional reform such as (1) manpower programs which seek to provide former offenders with jobs as a necessary precondition of their effective rehabilitation, (2) innovations such as halfway house and work release plans designed to ease the offenders' transition to the free world, (3) removal of employment restrictions that operate as legal barriers to former inmates' acquisition of satisfactory jobs, (4) pretrial intervention as an alternative to actual confinement, and (5) other proposals intended to successfully reintegrate former offenders into community life. Alteration of the prison industries structure affords an opportunity to coordinate various reform proposals required to provide offenders with additional services, such as remedial education, on-the-job training and acquisition of skills, and an increase in the level of personal and career counselling. Today's prison industries do not offer enough positive opportunities to enable an offender to compete effectively in the job market after release. Former inmates must be fully reintegrated into the free labor markets so that they can receive the rewards of accomplishment and achieve a stake in society. Unless this reintegration occurs in a meaningful way and in substantial numbers, the recidivism rate will, most likely, remain at its present unacceptable level.

Reform of prison industries in the United States is merely a domestic reflection of a global effort to improve the lot of prisoners in various parts of the world. Initiatives which have been taken in a number of countries, such as Sweden, are far more sweeping than proposals currently under consideration in Congress.[75] The lessons which have been learned in a number of foreign countries can probably be applied here so that many mistakes can be avoided and money saved.

Private Industry Expertise

Perhaps the most significant feature of the proposed legislation is its attempt to bring the expertise of private industry into corrections. In contrast with previous attitudes and anxiety about the potential competition of prison industries which led to enactment of restrictive legislation at the turn of the century, evidence of an enlightened disposition by industrial leaders toward the development of a new prison industries structure is apparent. The cooperation of industry and labor is essential if these major changes in prison industry programs are to succeed in actual practice. Industrial and employment programs must be changed so that inmates can receive essential skills,

Footnotes at end of article.

training and industrial experience related to the new jobs they will hold after release from confinement. Ideally, industrial programs should expose inmates to a work experience that will enhance their opportunities to acquire suitable free world employment rather than merely use their talents to manufacture products for governmental consumption. Carefully tailored work programs should not only result in production of an economically useful product but also should enable inmates to acquire self-respect and the satisfaction of a job well-done. A proper use of offenders in the operation of private industry inside or outside of prison [76] assumes that they will be trained for specific jobs within the company's normal operations. A diligent effort should be made to initiate the manufacture of products which are in demand on the free market so that not only can the industry itself remain profitable, but also offenders can transfer their newly acquired job skills into meaningful employment after release.

The industrial expertise, managerial techniques and experience which private industry offers are, perhaps, unobtainable elsewhere in the required amounts. Cooperation between private industry and correctional personnel offers new opportunities for innovation and problem-solving. Perhaps industrial concerns could be prevailed upon to locate factory branches at prison facilities or nearby so that offenders could continue working for the same employer after discharge. Such continuity of employment patterns would not only reduce the overall costs of training new personnel but also would provide the offender with an opportunity to effectively bridge the gap between the prison community and the outside world. Enlistment of the profit motive in the creation of economically self-sustaining manufacturing and distribution units offers the most promising solution to the problem. Obsolescent plants and equipment would be replaced with modern machinery, overstaffing and make-work practices would be gradually eliminated, quality control measures would be enforced, and large numbers of prisoners who are currently engaged in maintenance tasks would be transferred to production jobs. Private managerial expertise would be employed to solve the multitude of problems inherent in the creation of modern, competitive industrial operations. Moreover, the need for another costly federal bureaucracy to administer the program could be avoided by allowing private industry to assume a major innovative role. This is especially important since many members of Congress are reluctant to create new governmental agencies. An accurate reporting system that is subject to review by the General Accounting Office should be established. The proposed legislation is intended to guarantee that federal funds are spent properly.

Private industry can be encouraged to participate in the program in a number of ways. Federal and state governments could lease land, buildings and perhaps equipment to private industry to reduce capital costs. Differential payments can be made in return for management's assumption of the financial costs of providing training and education for offender-employees and for the initial losses in efficiency while prisoners are being assimilated into the work force. Rather than have the government make direct payments to improve today's outmoded prison industries system, a subtle program of tax credits or grants to the private sector on a contract fee basis would be more politically acceptable to the voters. Payments can be made for the delivery of educational information systems [77] so that highly qualified offenders can acquire educational skills needed to establish a foundation for future achievement. During the transitional period, existing prison industries can be expected to increase the amount of subcontracting with private industry, thereby acquiring its expertise as an immediate benefit.

A central concept in the reform of prison industries is enhancement of the work ethic. Many studies have shown that an offender's inability to acquire a suitable job after release has a direct correlation with the likelihood of his return to prison at some future time. A significant correlation between offender unemployment and recidivism exists.[78] Failure to obtain suitable employment after release provides the former offender with an incentive to return to a life of crime since he has not been afforded a reasonable alternative. Moreover, a satisfactory job enhances the individual's self-respect, reduces the risks of excessive idleness and offers him a stake in society. It must be emphasized, however, that an offender's desire to obtain work is often different from his capabilities to assume suitable employment; hence educational and vocational training is needed to properly prepare him for rewarding employment after release. Offenders should be encouraged to adopt the work patterns and norms of the free world so that they can become productive, useful citizens. A primary goal to be attained is the *employability* of the offender, i.e., his ability to obtain and retain employment; therefore, an immediate objective must be to provide him with the education, skills, training and attitudes that are required to achieve success in a work-oriented society. Training and education must be related to a meaningful work experience.

Offenders will normally choose remunerative work in prison for the short-term monetary rewards that it offers rather than opt for vocational education and training which would be more beneficial to them in the long run. The proposed legislation lacks provisions relating to prisoners who are in need of full-time educational programs. If highly qualified offenders were paid a minimum wage to acquire needed educational skills, they could advance at their own achievement levels to increase their employability after release. A contrary view often stated by correctional officials is that prisoners should work during the day and attend school on a part-time basis at night, as in the outside world. One must remember, however, that these offenders are in prison because they have already failed in the real world, so is it realistic to expect that they will succeed in such difficult endeavors? The proposed legislation leaves the question open.

Prevailing wage rates

The utilization of private enterprise to expand the operation of prison industries and the removal of market restrictions on the sale of prison-made goods will facilitate payment of wages comparable to union scales or at the prevailing rates in the locality. The spectre of unfair competition from a cheap labor source can be minimized by insisting that all prison workers, including those engaged in prison maintenance tasks, be paid at prevailing wage rates. At the present time, hourly compensation for workers employed in federal prison industries ranges between 19¢ and 46¢ per hour. Although incentive payments can increase the daily rate of pay, prisoners rarely earn in excess of $100 per month.[79] Payment of prisoners at prevailing wage scales would minimize risks of exploitation of prison workers, provide a realistic work environment for offender-workers, allow deductions for room and board, dependents' support, taxes and similar free world charges, and establish a substantial financial base for the prisoners' subsequent discharge. Deduction of reasonable room and board charges from prisoners' salaries would reduce the costs of correctional programs. Similarly, deductions for dependents' support would not only help to alleviate staggering welfare costs by eliminating many prisoners' families from the country's welfare rolls, but also would provide psychological advantages as inmates realize that they are making effective contributions to the support of their families.

The issue whether prisoners should be paid wages at current market rates is also important when the prison climate within which inmates must live and work is examined. The existence of an effective prison subculture that dominates the daily lives of offenders, often adversely, has been well documented and analyzed.[80] Within the "inmate society," prison leaders help to maintain internal control over other inmates in return for custodial largess in the form of immunities from enforcement of prison rules, rewards and special treatment. In this manner, inmate leaders help to control visible violence such as riots and disturbances which wardens are especially anxious to avoid while distributing custodial largess to fellow prisoners in return for their cooperation and recognition of their positions of leadership. The full force of prison sanctions is brought to bear against "troublemakers" who lose their immunity from small violations of strict prison rules. The covert operation of a prison subculture enables prison authorities to exert far greater control over large numbers of persons with fewer correctional personnel than would otherwise be the case. Private bargains between correctional authorities and inmate leaders determine the actual allocation of punishment within the confines of the prison walls. An unfortunate result in this informal system of rewards and punishment is that the system operates unequally so that the most inexperienced, weakest, most disliked or most racially disadvantaged groups are compelled to bear the brunt of daily sanctions. Even more significant is the fact that the rule of law is being replaced by rule of individuals who do not possess legally constituted authority.[81]

The payment of wages to prisoners according to prevailing wage scales in the community will have a definite impact upon the prison subculture, although the extent and nature of its effect is subject to conjecture. A recent study indicates that as the percentage of prison employees assigned to work release programs increased, the prevalence of prison subculture patterns tended to decrease.[82] The managerial effect of real wages on the inmate society would tend to reduce an individual prisoner's reliance upon the disbursement of custodial largess by prison leaders, hopefully eliminating many of the arbitrary punishments which characterize today's prisons. An increase in the remuneration that inmates receive and the employment of industrial managerial personnel from private industry would tend to reduce much of the manipulation, favoritism and discrimination that characterized existing prison societies.

Free world mix

With respect to the kind of employees hired to work in the new prison industries, the authors suggest a "free world mix" which would include free market employees working alongside prisoners. Selection of workers from among those in the free world as well as those in the prison population would, of course, have to be done with care if the project is to be successful. Hopefully, an acquisition of proper work habits and the attainment of an acceptable attitude toward work itself, a characteristic already present among free world workers, would be adopted

Footnotes at end of article.

by offenders to strengthen the work ethic. An optimum "free world mix" might consist of about 50 percent offenders and 50 percent nonoffenders to increase the efficiency and continuity of plant operations, maintain a stable work force to counteract the relatively large turn-over of prison workers due to release from confinement, and to lighten the burden of training new workers. Moreover, the attraction of new industry to a locality with its promise of jobs and a broader tax base would help to overcome traditional community opposition to the location of prison facilities nearby.

Victim's compensation fund

The establishment of a victim's compensation fund whereby an offender would be required to contribute not more than 10 percent of his salary[83] is perhaps subject to constitutional objections of a denial of property without due process of law. Although the proposed legislation conditions participation in the program upon a prisoner's waiver of his rights not to participate in a contribution of this kind, it is extremely doubtful whether a voluntary waiver can exist. Nonetheless, the establishment of a victim's compensation fund is preferable to a direct monetary payment to the victim or his family since this would eliminate any incentive to murder the victim to avoid payment of damages.[84] It would still be necessary to obtain a civil order, based on the extent of actual injury, to compensate individual victims of crimes. With respect to rehabilitation of offenders, however, correctional personnel regard compensation of victims to be preferable to mere incarceration.

Public Agency

A crucial element in the success of a modified prison industries program is the concept of a public agency which channels funds through prison industries for the ultimate benefit of the entire correctional process.[85] The authors advocate a new reorientation of the correctional system to focus upon the ultimate employability of offenders so they can return to free society as useful productive citizens. Even after these programs have been successfully implemented, the costs to society will be great due to the inherent nature of the work force, rapid labor turn-over, and substantial investments in training and facilities. It is unrealistic to assume that prison industries can become as efficient as their free-world counterparts. In the short run, we can expect to spend more money, not less. In the long run, however, we can achieve a number of notable goals, such as the reduction of crime, a diminution in welfare payments to prisoners' families, a decrease in expenditures for prison facilities, and the achievement of unmeasurable humanitarian goals as individual offenders realize their true potential as human beings.[86] Correctionl success today is viewed in a context that emphasizes reintegration of the offender into the community. A reorientation of the prison industries structure along the lines advocated here would institutionalize community corrections. Even more important would be the involvement of private industry and organized labor in such a manner that the community itself would be encouraged to assume a large share of the responsibility for correctional success. Community acceptance of the offenders is desperately needed for reintegration to succeed.

Removal of Legal Restrictions

Any serious efforts to reform prison industries in the United States can be successful only by dismantling the elaborate network of statutes, constitutional prohibitions and executive orders on both federal and state levels. Prison industries cannot be effectively developed until prison-made products are allowed to be sold in open competition with free market goods. The sale of prison-made goods, currently limited to governmental agencies, institutions and the armed forces, should be expanded to take advantage of new product lines, distribution patterns and customers. Antiquated pricing policies which reflect the costs of obsolescent machinery, plant and equipment must be updated and revised. Sales of prison-made goods far below the open-market price[87] would not occur if modern business practices were adopted. Product lines[88] could then be enlarged to generate sufficient volume to allow efficient and profitable operation. As a practical matter, repeal of these laws might have to be tied to guarantees that inmates be paid union wages or perhaps be allowed to unionize on a limited basis to achieve their demands for better prison conditions.[89]

Recent developments in community correctional programs have tended to minimize distinctions between community supervision of corrections activities on the one hand and actual confinement on the other. Since the bulk of the country's restrictive laws were enacted before community correctional facilities existed, the latter's legal foundations are, at best, uncertain. Prison industries must be effectively sold to the communities where they are to be located. Community resistance to prison industries and other programs such as half-way house can be moderated by offering local residents an opportunity to obtain employment in these new facilities. The attraction of jobs for local residents will also underscore the argument that a person need not have committed a crime to obtain suitable employment. Community support is also needed to attract additional funds from private industry to expand community-based programs for occupational and educational training.

Reform of today's prison industries will be a difficult, costly, perhaps unpopular task. However, the alternative of continuing the current haphazard approach to corrections is unacceptable in economic, financial and human terms. Something must be done to enable offenders to have a reasonable chance to return to society as worthwhile, respected citizens. Reform of prison industries presents an unique opportunity to take a long stride in that direction.

FOOTNOTES

*Consultant, American Bar Association Commission on Correctional Facilities and Services.

**Associate Professor of Business Administration, Virginia Polytechnic Institute and State University.

[1] National Advisory Commission on Criminal Justice, Standards and Goals, A National Strategy to Reduce Crime, Report to the National Conference on Corrections (Washington, D.C.: U.S. Government Printing Office, 1973) p. 144.

[2] The median sentence served is two years. U.S. Congressional Record, 93d. Cong., 1st Sess., 1973, vol. 109, p. 13, 175. Crimes for which penalties up to six months can be imposed are considered "petty offenses" whereas "serious crimes" ordinarily exceed this limit, *Duncan v. Louisiana*, 391 U.S. 145 (1968).

[3] United States Department of Justice, Uniform Crime Reports, 1970 (Washington, D.C.: U.S. Government Printing Office, 1971) p. 39. Similar figures are unavailable in the 1972 edition which merely lists the total percentage of repeaters during 1970–72 for all major crimes as 65%. United States Department of Justice, Uniform Crime Reports, 1972 (Washington, D.C.: U.S. Government Printing Office, 1972) p. 37. cf. Hans Zeisel, "F.B.I. Statistics—A Detective Story," American Bar Association Journal, vol. 59 (May, 1973) pp. 510–512.

[4] The term "reintegration" was first used by the President's Commission on Law Enforcement and Administration of Justice, Task Force on Corrections, Report: Corrections, (Washington, D.C., 1967) p. 28. Cited hereafter as Task Force Report. "Recidivism," as used in the Uniform Crime Reports, refers to an individual's arrest rather than to his conviction.

[5] U.S., Congressional Record, 93d. Cong., 1st. Sess., 1973, vol. 119, p. 13, 178.

[6] The "contract system" permitted outside contractors to employ prison labor in the manufacture of products using private supervision, materials and equipment. Under the "lease system," prisoners were dispatched to employers' work sites where their activities were supervised. The "public account" system received its name from the practice of state supervision of inmates and the sale of their products on the open market. The "piece-price system" referred to the practice of contractors furnishing raw materials to correctional institutions which used prison labor and collected for the finished product. For a detailed discussion of the historical evolution of the state use system, see the Select Committee on Crime, Reform of Our Correctional Systems, (Washington, D.C.: U.S. Government Printing Office, 1973) pp. 25–28. Cited hereafter as Reform of Our Correctional Systems.

[7] Ibid. pp. 25–27. The "Pennsylvania system" had its origin in the religious views of the Quakers, whereas the "Auburn System" received its designation from the Auburn prison in New York which, in 1821, employed convict labor in manufacturing goods.

[8] Ibid. p. 27. Note, however, that many persons who are classified as prison industry employees are, in actuality, engaged in janitorial work and other prison maintenance tasks.

[9] Utah Manufacturers' Assn. v. Mabey, 226 P. 189 (Utah Sup. Ct., 1924); Price v. Mabey, 218, P. 724 (Utah Sup. Ct., 1923).

[10] People v. Hawkins, 157 N.Y. 1, 51 N.E. 257 (1898); State ex rel Greaves v. Henry, 87 Miss. 125, 40 So. 152 (1906).

[11] Whoever transports or imports "any goods, wares or merchandise manufactured, produced or mined . . . by convicts or prisoners . . . shall be fined not more than $1,000, or imprisoned not more than one year, or both." Agricultural commodities, parts for farm machinery, and commodities manufactured for the use of the federal government, states and political subdivisions thereof are excluded. Goods manufactured by prisoners on parole or probation are excluded from the proscriptions of this statute, 18 U.S.C. § 1761 (1948). The constitutionality of this statute was upheld in Kentucky Whip and Collar Co. v. Illinois Central Railway Company, 299 U.S. 334 (1937).

[12] In effect, convict-made goods are subjected to the laws of the state to which they are transported by divesting these goods of their interstate character, the Hawes-Cooper Act, 49 U.S.C. § 60 (1929). Congress has such authority over interstate commerce, State v. Whitfield, 216 Wis. 577, 257 N.W. 601 (1934). An Ohio statute prohibiting the sale of inmate-made goods on the basis of the federal statute was upheld in Whitfield v. State, 49 Ohio App. 530, 197 N.E. 605 (1935), aff'd. 297 U.S. 431 (1936). See also State of Alabama v. State of Arizona, 291 U.S. 286 (1934).

[13] The Walsh-Healey Act forbids the use of convict labor by contractors in the "manufacture . . . production or furnishing of any . . . materials, supplies, articles or equipment" used in government contracts where the amount thereof exceeds $10,000, 41 U.S.C. § 35–45 (1936). The Act does not apply to

industry in general but rather to contractors who voluntarily compete to obtain government business, Endicott Johnson Corporation v. Perkins, 317 U.S. 501 (1943) and it does not apply to contracts for war materials, 40 Op. Att'y Gen. 207 (1942).

[14] 23 U.S.C. §114(b) (1958).

[15] 49 U.S.C. § 1722(c) (1970).

[16] 39 U.S.C. § 2010 (1960); 39 U.S.C. § 2201 (1970).

[17] 18 U.S.C. § 1762 (1948). A $1,000 fine can be imposed on any goods which are not properly marked, and they can be seized by government authority. The constitutionality of labeling requirements for prison-made goods was attacked in a number of early cases, People v. Hawkins, 85 Hun. 43, 51 N.E. 257 (N.Y. Ct. App. 1898); In re Opinion of the Justice, 211 Mass. 605, 98 N.E. 334 (1912); Hessick v. Moynihan, 83 Colo. 43, 262 P. 907 (1927); State v. Whitfield, 216 Wis. 577, 257 N.W. 601 (1934) as an interference with interstate commerce. But recently, the constitutionality of these labelling statutes has been upheld, Kentucky Whip and Collar Co. v. Illinois Central Railroad Company, 299 U.S. 334 (1937).

[18] 41 U.S.C. § 48 (1971).

[19] 19 U.S.C. § 1307 (1930).

[20] Exec. Order No. 325A (1905).

[21] 42 U.S.C. § 410 (1950).

[22] 18 U.S.C. § 4124 (1951) and 18 U.S.C. § 4161 (1970); 40 Op. Att'y Gen. 207 (1942).

[23] 18 U.S.C. § 4122 (1967).

[24] 18 U.S.C. § 4123 (1948).

[25] 18 U.S.C. § 4124 (1951.

[26] 18 U.S.C. § 4125 (1948).

[27] 23 U.S.C. § 114 (1958).

[28] 10 U.S.C. § 951 (1968).

[29] 18 U.S.C. § 4001 (1955).

[30] 18 U.S.C. § 4002 (1955).

[31] 18 U.S.C. § 4082 (1965).

[32] *Kentucky Whip and Collar Co.* v. *Illinois Central Railroad Co.*, 299 U.S. 334 (1937) cf. *People* v. *Hawkins*, 157 N.Y. 1, 51 N.E. 257 (1898) which held that citizens are not constitutionally entitled to know the source or origin of goods; hence, a New York statute requiring prison-made goods to be clearly labeled as such was not justified on the basis of the police power. In *Hessick* v. *Moynihan*, 83 Colo. 43, 262 P. 907 (1927) a statute prohibiting the sale of goods or commodities produced or grown by convict labor was not a valid exercise of the state's police power.

[33] 49 U.S.C. § 60 (1929).

[34] *Whitfield* v. *Ohio*, 297 U.S. 431 (1936).

[35] Opinions of the Justices, 211 Mass. 605, 98 N.E. 334 (1912); Hessick *v.* Moynihan, 83 Colo. 43, 262 P. 907 (1927).

[36] Arnold v. Yanders, 56 Ohio St. 417, 47 N.E. 50 (1897); People v. Hawkins, 157 N.Y. 1, 51 N.E. 257 (1898); Opinion of the Justices, 211 Mass. 605 98 N.E. 334 (1912); Kentucky Whip and Collar Co. v. Illinois Central Railroad Co., 299 U.S. 334 (1937).

[37] Whitfield v. Ohio, 297 U.S. 431 (1936).

[38] People v. Hawkins, 85 Hun. 43, 32 N.Y. Supp. 524 (1895); State v. Whitfield, 216 Wis. 577, 257 N.W. 601 (1934).

[39] Arnold v. Yanders, 56 Ohio St. 417, 47 N.E. 50 (1897). See also People ex rel Phillips v. Raynes, 136 App. Div. 417, 120 N.Y.S. 1053 (1910).

[40] Choctaw Pressed Brick Co. v. Townsend, 108 Okla. 235, 236 P. 46 (1925).

[41] Hessick v. Moynihan, 83 Colo. 43, 262 P. 907 (1927).

[42] Ove Gnatt Co. v. Jackson, 205 Ind. 51, 184 N.E. 553 (1933).

[43] Pitt v. Reagen, 14 Cal. App. 3d. 112, 92 Cal. Rptr. 27 (Cal. Ct. App., 1971).

[44] The California constitution, Art. x Sec. 1, provides that convict labor shall not be the subject of a contract with any private person, partnership or corporation.

[45] Hessick v. Moynihan, 83 Colo. 43, 262 P. 907 (1927).

[46] People v. Hawkins, 157 N.Y. 1, 51 N.E. 257 (1898); Hessick v. Moynihan, 83 Colo. 43, 262 P. 907 (1927).

[47] Mass. Gen. Laws, Correctional Reform Act, Sen. No. 1330 (1972).

[48] Minn. Stat., ch. 145, S.F. No. 197 (1973).

[49] Minn. Stat., § 243.86 (1967).

[50] Minn. Stat., § 241.26 (1971).

[51] Offenders designated "parolees" are persons within the purview of 49 U.S.C. § 60 (1929).

[52] Crushed limestone and lime dust for agricultural and horticultural purposes can, however, be purchased by the general public, Council on the Diagnosis and Evaluation of Criminal Defendants, Illinois Unified Code of Corrections (St. Paul, Minnesota: West Publishing Company, 1972) 1003–12–7.

[53] For an analysis of prison industries in Canada, see Robert Evans, Jr., Prison Industries in the Canadian Penitentiary Service (Ottawa, Canada: The Canadian Welfare Council, 1970).

[54] National Institute of Law Enforcement and Criminal Justice, The Role of Correctional Industries: A Summary Report (Washington, D.C.: U.S. Government Printing Office, 1972) p. 9.

[55] An analysis of the economics of prison labor is found in Neil M. Singer, "Incentives and the Use of Prison Labor," Crime and Delinquency, vol. 19 (April, 1973) pp. 200–211.

[56] Robert Taggart, The Prison of Unemployment: Manpower Programs for Offenders (Baltimore, Maryland: Johns Hopkins Press, 1972) p. 55.

[57] Sterling Institute, To Help Men Change (Washington, D.C.: U.S. Bureau of Prisons, 1970) pp. 9–10; George Pownall, "Employment Problems of Released Prisoners," Manpower, Vol. 3 (January, 1971) pp. 27–30.

[58] In sharp contrast to these statements are the programs funded under the Manpower Development and Training Act. For a discussion of these programs, see Taggart, pp. 44–60. While in prison, the average worker receives from 10 cents to 65 cents a day, National Council on Crime and Delinquency, "Compensation of Inmate Labor: A Policy Statement," Policies and Background Information (Hackensack, N.J.: National Council on Crime and Delinquency, 1972) p. 8.

[59] A classic study which delves into these matters is by George Pownall, Employment Problems of Released Prisoners (College Park, Maryland: University of Maryland Press, 1969).

[60] A twelve-week program at Hagerstown, Maryland, and remedial education programs at Pace Institute, Cook County, Illinois jail, are examples of highly successful projects.

[61] "Compensation of Inmate Labor: A Policy Statement," pp. 8–9.

[62] Daniel Glaser, The Effectiveness of a Prison and Parole System (New York: Bobbs-Merrill, 1969); Pownall, "Employment Problems of Released Prisoners," Manpower, pp. 27–30.

[63] Reform of Our Correctional Systems, p. 30.

[64] The Federal Criminal Justice System Reorganization Act, S. 2160–2164, 93d. Cong., 1st Sess. (1973), was introduced on July 12, 1973. It has five principal parts, as follows: (1) the Federal Criminal Justice System Reorganization Act, (2) Offender Employment and Training Act, (3) amendment of the Voting Rights Act of 1965, (4) rights of federal parolees, and (5) rights of parolees in the District of Columbia.

[65] Titles I and II of Senate bill, S. 2161, 93d. Cong., 1st Sess. (1973), are pertinent to prison industries reform.

[66] 42 U.S.C. § 410 (1972).

[67] 26 U.S.C. § 3121 (1972).

[68] U.S., Congressional Record, 93d. Cong., 1st Sess., 1973 vol. 109, p. 13, 178.

[69] 18 U.S.C. § 1761 (1948).

[70] H.R. 6747, 93d. Cong., 1st Sess. (1973).

[71] 29 U.S.C. § 206 (1938).

[72] H.R. 6745, 93d. Cong., 1st Sess. (1973).

[73] Total expenditures for the criminal justice system in 1971 were $10,513,358,000. Reflected in this amount was $1,448,223,000 spent on the federal level, $2,920,751,000 on the state level, and $6,662,697,000 on the local level. For corrections, total expenditures were $2,291,073,000, including $121,258,000 spent on the federal level, $1,387,331,000 by the states and $895,420,000 disbursed locally. The totals for corrections include expenditures for local jails. Expenditure and Employment Data for the Criminal Justice System, 1970–1971 (Washington, D.C.: U.S. Department of Commerce, 1973) Table 2, p. 11.

[74] More than 55,000 prisoners' families are on welfare. Welfare costs exceed $250,000 annually. U.S., Congressional Record, 93d Cong., 1st Sess., 1973, vol. 109, p. 13, 178.

[75] In Sweden, for example, a basic decision is made to locate a factory in a particular geographical area so that products in demand on the free market sector can be manufactured. Thereafter, the prison facility is constructed within and around the industrial site. For a discussion of the correctional apparatus in a number of foreign countries, see John P. Conrad, Crime and Its Correction: An International Survey of Attitudes and Practices (Berkeley, Calif.: University of California Press, 1967).

[76] Senator Percy's bill defines an "offender" as anyone ". . . charged with or convicted of a criminal offense . . .," Tit. I, § 4129, S. 2161, 93d Cong., 1st Sess., 1973. Persons arrested are clearly included in the bill, thus making pretrial diversion programs fundable. S. 3185, 92d. Cong., 2d. Sess., 1972 would have authorized programs within the exterior boundaries of penal institutions. Cf. the present bill which allows funding for prison industries inside and outside prison walls.

[77] R.C.A. Education Systems, Inc., Cherry Hill, N.J., can, for example, provide complete correctional service programs for offenders.

[78] Roberta Rovner-Pieczenik, The First Decade of Experience: A Synthesis of Manpower Research and Development Projects in Criminal Justice and Corrections, 1963–1973 (Cambridge, Mass.: Criminal Justice Research, Inc., 1973) pp. 26–30.

[79] United States Senate Subcommittee on Business, Commerce and Industry, Hearings on the Impact of the Court Reform and Criminal Procedure Act of 1970 on Correctional Institutions in the District of Columbia (Washington, D.C.: U.S. Government Printing Office, 1971) pp. 32–33.

[80] For an exhaustive study of the manner in which the prison sub-culture dominates offenders' daily lives, see Note, "Bargaining in Correctional Institutions: Restructuring the Relation between the Inmate and the Prison Authority," Yale Law Journal, vol. 81 (March, 1972) pp. 726–757.

[81] Ibid, pp. 738–745.

[82] Robert Swanson, Work Release: Toward An Understanding of the Law, Policy and Operation of Community-Based State Corrections, Final Report Summary (Carbondale, Illinois; Center for Study of Crime, Deliquency and Corrections, 1973) p. 18.

[83] A total maximum deduction limited to not more than 10 percent of a prisoner's salary is probably needed to guarantee the effectiveness of the incentive of earning money as an aid in rehabilitation.

[84] The authors have on file, at the American Bar Association's Commission on Correctional Facilities and Services, records of at least one case where this has actually occurred.

[85] The President's Task Force Report, 1970, recommended that a public corporation be

established which would have as its function ". . . the adoption of programs for the employment and training of criminal offenders . . ." p. 11.

[86] C.f. John F. Holahan, A Benefit-Cost Analysis of Project Crossroads (Washington, D.C.: National Committee on Children and Youth, 1970) for an extensive cost-benefit analysis utilizing long-run savings from crime reduction.

[87] A New York State audit disclosed recently that the state Department of Correctional Services had sold inmate-produced goods in 1973 far below the open-market price. Metal products manufactured at the Attica prison, for example, were sold at 1968 prices, and in some cases comparable items were sold at one-third of their current market value. The New York Times, Aug. 16, 1973, p.. 27 col. 8.

[88] For decades, prison industries have limited their product lines to government and institutional needs such as the manufacture of license plates, metal highway signs, nameplates, playground equipment, office furniture, clothing and uniforms, tin cans, reflective decals, identification badges, etc. The Howard Eglit Study, an unpublished survey of state correctional facilities made available to the authors, 1972, f.f. Howard Eglit is former Corrections Counsel, Committee on the Judiciary, U.S. House of Representatives.

[89] For a discussion of the practical limitations of litigation to achieve redress of inmate grievances, see Linda R. Singer and J. Michael Keating, "The Courts and the Prisons: A Crisis of Confrontation," Criminal Law Bulletin, vol. 9 (May, 1973) pp. 337–357.

NIXON ADMINISTRATION ECONOMIC FAILURES

Mr. HUMPHREY. Mr. President, the current state of our Nation's economy demands immediate attention. As chairman of the Consumer Economics Subcommittee of the Joint Economic Committee, I am particularly well aware of the alarming deterioration in the Nation's economic condition.

Inflation rages while the country plunges deeper into the current recession. This nightmarish combination will not be alleviated by administration efforts to redefine the word "recession" or by making empty promises that the end of inflation is just around the corner. The unbearable situation of the American consumer is worsening, necessitating the immediate formulation of effective policies to both combat inflation and get the economy moving again.

A New York Times editorial of April 22, 1974, describing the symptoms of "slumpflation," a phrase describing the combination of broadly based inflation and steadily declining output, questions the wishful forecasts and lack of tangible action which comprise the Nixon administration's economic policy.

In a statement released on Monday, I commented on the failures of the administration's economic policy. In the midst of a recession, a very high level of unployment, and staggering price increases, the President continues to avoid economic reality, merely providing the public with unfounded prophecies of an improved economic outlook.

Mr. President, I ask unanimous consent that my statement and the New York Times editorial be printed in the RECORD.

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

HUMPHREY BLASTS NIXON ADMINISTRATION ECONOMIC FAILURES

(By Senator HUBERT H. HUMPHREY)

WASHINGTON, D.C., Apr. 22.—Senator Hubert H. Humphrey, chairman of the Consumer Economics Subcommittee, Joint Economic Committee, today issued the following statement on the deterioration in the nation's economic condition:

For generations economists have claimed that a high rate of inflation could not exist side by side in our economy with a drop in economic activity, high levels of unemployment and high interest rates. Unfortunately, they will have to rewrite all their textbooks.

The Nixon Administration has clearly proved that, with its economic policies, you can have all of this bad news at the same time.

We have experienced a 5.8 percent nose dive in the real value of the gross national product, the worst drop in total economic activity since the major Republican recession of 1957–58. But we have also suffered a red-hot and broadly based inflation, pushing prices up 10.8 percent in the last three months—the steepest quarterly increase since 1951.

The latest figures confirm that the glowing State of the Union rhetoric about "no recession" and "reduced inflation" was simply the empty promises of a beleaguered President who confused what he would like to see with the hard facts of economic life.

I see no reason to share the optimism regarding hoped for economic performance in the second half of 1974 that is being voiced by the Administration. Its failure to project accurately economic conditions in the last several years has only been surpassed by its inability to deal with our nation's economic woes.

We are now in the midst of a recession. Economic activity has declined in each of the past three months and a further drop in output is expected by many observers.

The unemployment rate has jumped from 4.6 percent in October 1973 to 5.1 percent in March 1974. But this highly unsatisfactory level is expected to go even higher in the next several months.

There is little evidence to support the White House expectation that inflation has reached its peak.

There may be some leveling off of food price increases temporarily during the harvest season.

But it is my judgment that higher prices for raw material to the industrial sector, rising labor costs after a year of relative wage stability, and soaring interest rates will result in pushing prices up at similarly high rates for the remainder of 1974.

As the staggering wholesale price rise of 19 percent during the last 12 months works its inevitable way into retail sales, the harassed American consumer will be faced with yet another big dose of inflation this fall.

With prices racing way ahead of wages for the second straight year, the total failure of Nixon economic policy is painfully evident to American's working families.

We learned Friday that real weekly spendable earnings fell an incredible 12 percent during the past quarter.

To reverse the failures of Nixon economic policy we must immediately:

Reduce taxes for low and middle income families in order to stimulate the economy through consumer demand;

Mount an expanded program of public service jobs for the unemployed;

Replace the mismanaged wage/price control program with a permanent inflation monitoring institution, with largely voluntary wage/price guidelines, but some limited stand-by authority to prevent highly inflationary wage and price increases.

While the Administration has consistently argued against such measures, I believe that, in light of its most recent failures, a completely new approach to economic policy is warranted.

In all my years in government, it is hard to remember a failure of leadership any more glaring than the failure of this Administration to develop effective policies to deal with inflation.

[From the New York Times, Apr. 22, 1974]

RECORD SLUMPFLATION

The nation's economic performance in the first quarter of this year was almost certainly the most alarming of the entire postwar period. Real output declined at an annual rate of 5.8 per cent, the sharpest drop in gross national product in sixteen years. The over-all price level increased at an annual rate of 10.8 per cent—the steepest climb in 23 years. Most disturbing of all, slump and inflation worsened in parallel. By an "index of economic disorder"—combining the rate of decline in real G.N.P. with the rate of inflation—this slumpflation provides the poorest record since World War II put an end to the Great Depression.

The first quarter's dismal record cannot be dismissed as a fluke, a stroke of bad luck caused by the energy crisis. Unquestionably, the oil embargo and soaring fuel prices did help to depress the economy and exacerbate inflation. The energy-cost squeeze has still not ended and could even intensify in the months ahead.

But the American economy had entered a slump even before the Mideast war broke out in October. Housing had fallen precipitiously due to tight money and high interest rates. Analysts had hoped that a gradual slowing of the economy and lower interest rates would boost housing. Instead, accelerating inflation has raised rates to peak levels and housing is slumping again.

Inflation has also worsened the cash problems of many businesses, especially such heavy borrowers as the real estate investment trust. Even with heavier carrying costs, business inventories are still rising. Since much inventory building was involuntary, such as the pile-up of unsold autos, production-depressing cuts in stocks appear to lie ahead.

Inflation is practically out of control. Nationally, consumer prices rose at an annual rate of 13.2 per cent in March; in the New York area, the cost of living climbed at a 14.4 per cent annual rate. Relentlessly, the Administration goes on removing controls day by day, and Congress shows no disposition to design an effective new anti-inflation program to replace the shattered ruins of the existing one after April 30.

The new temptation—sponsored, curiously enough by libertarian economists—is to learn to live with inflation by imitating authoritarian Brazil and attaching all incomes and bonds to a price-index escalator. But without waiting for the United States Government to go Brazilian, American labor is producing an "indexing" solution of its own through an automatic tie of higher wages to higher prices. Understandable as labor's pressure is, the reality is that sharp rises in wages, far in excess of productivity gains, threaten either to intensify unfairnesses in the distribution of inflation—or to create a profit squeeze and deepen the recession.

The Administration is apparently counting

on a slowdown (which President Nixon has forbidden his underlings to call a recession) to check the inflation. At the same time, it is counting on a second-half recovery to keep unemployment from growing significantly. But what plans has the Administration, if these wishful forecasts go awry?

Flying without flight plans or controls, the Administration's top policy makers are jostling for the pilot's seat. Mr. Nixon has announced that he intends to take personal charge of "economic policy." "What policy?" one might well ask. On the record to date, this could be the most disturbing news of all.

AN EXEMPLARY RIGHT TO READ PROGRAM

Mr. JAVITS. Mr. President, as New York's Senator and as a member of the Subcommittee on Education, I take an especial pride in inviting to the attention of my colleagues the article in the current issue of American Education, the monthly publication of the U.S. Office of Education, which singles out the Sinclairville Elementary School as having an exemplary right to read program. Sinclairville, a small community in the beautiful farm country of western New York State, is not a principal population center although its proximity to the State University College at Fredonia has been a factor in its success, the school having been able to draw upon the talents of Dr. John E. Connelly, a professor of education at Fredonia. Nor is it located in an academic center. Yet its right to read program has such a proven success that the U.S. Office of Education has devoted 6 pages of its monthly publication to the Sinclairville experience.

I was also pleased to note the important role of community participation and understanding in contributing to the accomplishments of Sinclairville's right to read program. The children have considerably benefitted from this important link between the school and the home.

Sinclairville may be small but its schools have made it large in the eyes of the Nation and my State.

I ask unanimous consent that the article from the April issue of American Education, "Delivering on the Right to Read," be printed in the RECORD as part of my remarks.

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

DELIVERING ON THE RIGHT TO READ

(By Jeffrey B. Nelson)

The no-nonsense sign at the front door of the Sinclairville Elementary School says, "Visitors must report to school office." That's good practice anywhere, but in Sinclairville it's been a matter of necessity ever since the "Right to Read" was proclaimed as inalienable in this tiny hill-country community on the western edge of New York State.

Visitors from far and near have found their way here in droves. Even the State Commissioner of Education, Ewald Nyquist, dropped in to look at what many consider to be one of the best programs in the Right to Read stable.

A couple of years ago, the thought of anyone coming to observe a reading program at Sinclairville would have been a joke. "The scores our youngsters were making in reading were pretty poor," concedes Elmer Horey, who was principal at the time Sinclairville applied for assistance from the U.S. Office of Education's new Right to Read program. A demonstrable need for help, coupled with a "demonstrated faculty interest in doing something about it" may have strengthened Sinclairville's case in Washington, Horey believes. That and the community's rural character, the other three original Right to Read schools in the State all being in the New York City area.

After a planning year in 1971–72, the program got rolling last year. News of interesting things happening here quickly spread, and, in reading circles at least, Sinclairville Elementary was on its way to gaining some national notice. The day *American Education* representatives arrived at the school happened to be a light one for visitors. Only one other group had dropped in, and Principal Larry Griffin took advantage of the situation to break in two parent volunteers as official greeters and guides for the school. "If after saying hello, I could have these parents take over and show people around, it would really be a help," says Griffin. "I could then get back together with our guests over lunch."

Showing people around would also include presenting the tape-slide program the school has developed to orient outsiders, and distributing a things-to-see guide which directs visitors to where they can view certain types of instructional techniques being employed or special kinds of equipment or materials in use.

At most schools having parents serve as guides might seem too demanding. At Sinclairville, however, lots of parents are around and doing even more complicated tasks—like teaching. School officials have been known to bet you your lunch you can't walk into a typical classroom and tell which is the teacher, the aide, the student teaching intern, or the parent volunteer. The visitor should be prepared to lose the bet, since all the adults in the room are engaged in instruction and all appear equally authoritative. Even the children seem unaware of any flow chart of competence or authority. "They'll ask anybody for help," says Griffin. "If you're bigger than they are, they think you're an expert." Parent volunteers drop in often, Griffin points out, and "pupil-teacher ratio gets pretty near one-to-one in a classroom sometimes."

Most teachers seem grateful for the extra help, though there is some variance of opinion among staff members about which kinds of instructional tasks a parent is qualified to perform. Arlene Josephson, a teacher and primary unit leader, notes that the number of parent volunteers in the school dropped last year and concedes that "some gave up in boredom, because we didn't use them to the best advantage." She believes steadfastly, however, that parents can be effective teaching assistants. "These are intelligent, interested people. They've worked with children in Scouts, 4–H, and elsewhere. They can do it."

Mrs. Josephson and her own classroom volunteer, Marilyn Desnerck, appear to get along famously. Mrs. Desnerck, an attractive, thirtyish brunette, had worked that morning with a group of six first-graders who had problems concentrating. She had read stories to the group, then heard their explanations of the content. After that she circulated around the room helping children with their question sheets, assisting others with their dot-to-dot pictures, and generally making herself available to any youngster who needed individual attention. The thing she and other parent volunteers judiciously stay away from is the assignment of specific remedial tasks. "I can see in which areas a student is having trouble," says Mrs. Desnerck, "but I just relate my findings to the teacher."

Mrs. Desnerck first signed on as a volunteer at Parent's Club, a PTA-like organization in which the school has undertaken a major information effort on Right to Read and has pushed to get parents involved in the program. She comes in on Wednesday mornings, leaving two preschoolers with a sister-in-law. On Thursdays the two women switch duties, the sister-in-law coming to the school while Mrs. Desnerck minds the children.

Such parental enthusiasm has been hard-won in this farming-area village of 700. It's an economically hard-pressed community, and many of the 498 students bused in to the relatively new brick school building have been less than superior academically. Moreover, most parents were not reading types themselves, and when it came time to appoint community members to the Right to Read Planning Task Force, most had to be sold on the assignment. Parents were placed on the task force not especially for their advice on academic matters but to add community perspective. They've reportedly done yeoman duty as information conduits and rumor-spikers.

As the program began to evolve, school personnel assiduously sought community involvement. Numerous special meetings—some in the form of covered-dish suppers and usually with baby-sitter service provided—began to draw bigger and bigger crowds. Whether they're involved in publishing the local Right to Read newsletter or in actually teaching students, "parents appreciate being involved, and we have had a say right from the start," says Mrs. Desnerck. She adds that parental involvement helped nip any potential community disquiet in the bud, and a community survey showing 78 percent approval of the program backs her up.

"Oh, sure, there's been a little controversy," Mrs. Desnerck notes. "Some people are always suspicious of change. You know, they say, 'It's not the way I was taught.'"

There's no question that education at Sinclairville Elementary is different than it once was. Classroom activities here—which sometimes spill out into the hallways—may go on in an "open" classroom with different grade levels mixed together or in a "contained" classroom with fewer distractions. Instructional techniques may be as simple as children reading stories to one another or as exotic as gaming-simulation, in which students do original research in order to act out some real world situation. Teaching materials and equipment may vary from the familiar old flash card up to wireless headsets and videotape cameras.

One thing is certain. When it comes to teaching reading, they don't mess around at Sinclairville. Almost everything that goes on has reading as its base. In Ann Murtaugh's second- and third-grade room, youngsters were making decorations for the bulletin board. They were cutting out and filling a toy truck with pictures of objects that begin with "tr," which they found after looking them up in the index of a battered Sears catalog.

Eight-year-old Darrin Saxton was finding the activity a nice break. He had just wrapped up his "contract" for that week with Mrs. Murtaugh, the contract being a written agreement between teacher and student in which the student agrees to reach a certain level of reading skill for which the teacher promises to award a particular grade or similar perquisite. The contract is based on each child's reading level and is written to ensure, with a little bit of effort, a "success experience" for the student. The Sinclairville system puts a lot of stock in these success experiences—building them into many

activities—because it's felt that increasing a youngster's self-confidence is an important part of academic progress.

It is particularly important that a child experiences success in reading, says John E. Connelly, project coordinator and the key man in Sinclairville's Right to Read program. "Reading is not a subject like arithmetic or geography," says Dr. Connelly, who is also a professor of education at the nearby State University College at Fredonia. "It's a process. It goes on all day long. It's the foundation on which all other courses are built."

Reading, Connelly feels, is too important to be left to a "reading coordinator." He says, "I don't believe in reading coordinators, in sending three or four kids down the hall to a converted broom closet for remedial work. Better everyone should be a reading specialist."

Nor does the Cassadaga Valley School District of which Sinclairville is a part have a district-wide reading coordinator. Connelly had been helping out there even before Right to Read came along, and when it did, the district grabbed him as project chief.

Griffin notes that Right to Read schools have access to reading consultants who'll fly in for periodic visits, and Sinclairville has had all the outside help it requested. But he credits Connelly as "the brains behind the operation," and says, "Having John here and available two days a week has been just invaluable."

One piece of advice Connelly gave the Sinclairville school people—later ratified by the Right to Read Task Force of administrators, teachers, and community members—was to spend their grant money on people first, not gadgets. Larry Griffin, new as principal this year, readily agrees with the decision. "The individualized approach we strive for can't be done without extra hands," he contends.

Besides staffing up with teacher aides, Sinclairville undertook an intensive program to prepare the existing faculty for the rigorous new approach to reading instruction. A no-holds-barred workshop, four weeks long, was held in the summer of 1972, for which teachers received extra compensation. Teachers were also paid for taking a series of ten inservice workshops during the last school year. These were held after school hours, from 3:30–7:30 p.m.

Why all the extra work? Frankly, say Connelly and fellow members of the reading staff at Fredonia State, until very recently most education majors have not been taught to teach reading and therefore have been woefully unprepared to handle the job. Consequently, a primordial step in the process at Sinclairville was diagnosing the weaknesses of the teaching staff in both reading and the teaching of it. Testimony to the need for that step came when Sinclairville teachers took the 16-page "Connelly Diagnostic Test"; one top teacher read so slowly she completed only 38 of the 100 questions.

Of the $137,000 the Sinclairville school has received so far in its three- to five-year Right to Read program, only a relatively small amount has gone for equipment and materials. Some money was spent on beefing up individual classroom libraries, other funds went for the various types of reading kits, workbooks, and tests that stock the main school library, which goes by the somewhat pretentious name of the Human Potential Learning Center (HPLC).

Yet Sinclairville is by no means lacking in either equipment or materials. The staff is particularly proud of the school's wireless headset system—purchased with Right to Read funds—which allows youngsters to wander freely in their classrooms as they listen to four channels' worth of cassette tapes containing stories, reading exercises, and the like. The school is wired for television, and such shows as "Sesame Street" and "The Electric Company" are screened twice a day because Connelly endorses the reading-teaching methods employed in both programs. The school also owns a sophisticated telebinocular machine for eye testing.

Although, according to one administrator, "salesmen came out of the woodwork when they found out we had money," Sinclairville was hardly guilty of throwing handfuls of bucks into the air to be caught by the purveyors of gadgetry. Connelly says he insisted that teachers take a hard look first at the stuff already gathering dust on the shelves. Each new piece of equipment or each new materials system had to be justified prior to purchase by the person ordering it. The same tight control prevails today, with the six college student interns giving the acid test to the wares of salesmen and reporting thumbs up or down to the school administration.

Any new gear has to meet strict criteria for utility in either the diagnosing or the correcting of a child's reading weakness. The Sinclairville Right to Read program follows the diagnostic/prescriptive concept like a religion, its bible being the "Diagnostic/Prescriptive Reading Handbook," an 80-page blueprint that not only sets down the goals and objectives of the program but goes on to state how they will be achieved.

From the mere letter designation HPLC for the learning center and, of course R2R for Right to Read, the Sinclairville school acquired a taste for acronyms ("They're almost a Federal requirement," cracks Griffin). For example, the school now boasts:

SILO—The Sinclairville Individualized Learning Organizer, a farm-country sobriquet for the grey file cabinet which serves as a storage place for the numerous skill packages and teaching techniques developed by teachers and their assistants.

PET—Parent Effectiveness Training, a program that encourages parental interest in the child's reading activities.

CAPE—Case Approach to Physical Education, which provides classic evidence of how all school subjects become supportive of the reading program. Control of the motor skills has a high relationship to reading ability, it's believed here, and a child who can't skip, for example, will be mustered off for special skipping practice with gym teacher Art Asquith.

"I was skeptical at first of this supposed correlation between body coordination and reading ability," says Asquith. He now pronounces himself "a believer," particularly keen on the body alphabet in which teams of two youngsters each form letters with their bodies.

At this point in the R2R program Sinclairville teachers share that belief in the system, but it was not always thus. One veteran teacher admits that she and other colleagues greeted the initial announcement of Sinclairville's selection for R2R with a "here-we-go-again attitude." "We'd been in several programs before on one subject or another," she says, "and so our skepticism was somewhat conditioned."

Now, however, school administrators are defining "staff commitment" as perhaps the essential difference between Sinclairville's success with the program and the experiences of some other schools. This commitment didn't come automatically from all hands, of course, but when foot-draggers were invited to transfer out to some other school in the district, the enthusiasm level shot up markedly.

The school administration still maintains a wary watchfulness that the program's hallmarks are strictly observed in every classroom. One of these is that each child be treated individually. Another, which might be referred to as the "diagnostic imperative," says, in essence, "You can't help a student until you learn what his problem is."

Marcia Peck, a teacher for 15 years says, "We're still just getting our feet on the ground in the program," but she sees plenty of promise in it. She appreciates particularly the way the scheme sets down a teacher's responsibilities and gives "a systematic way to attach each problem a child may have." The method has dramatically enhanced a youngster's chance of learning to read well at a young age—and enjoying it in the process, she maintains.

As the system calls for, Mrs. Peck keeps detailed records on each child's strengths and weaknesses in reading. She employs different workbooks and materials to test such reading skills as vocabulary, comprehension, speed, phonetics, word structure, and study skills. A 350-item checklist, the "Continuous Pupil Progress Profile," also aids the effort by providing a running record of progress in the various reading skills and suggesting either "proceed" or "reteach" for each one of them.

Once a problem area is identified and the prescription written to remedy it, the teacher, her aide, an intern, or a parent may work with the youngster on a particular skill. The children also drill one another, usually with flash cards.

The only drawback, as Mrs. Peck sees it, is the enormous chore of preparing materials, a task that sometimes keeps her up until the morning's small hours. "I'm gung-ho on this, I really am," she emphasizes. "But I do get frustrated when I don't have the time to do all the class preparation I'd like to do."

This comment exemplifies some of the pressure attendant in mounting a program of the intensity of Sinclairville's Right to Read. All the changes over such a short span of time, all the crash preparation work, all the visitors, the overseers, all the probing questions. It's been tough on some of those in the hurricane's eye. Former Principal Horey, who stepped down from the top job this year, admits that Right to Read wasn't the best thing that ever happened to his nervous system, even though it probably was the best thing that ever happened to his school.

Few of the school's staff would trade all the recognition they've received, of course, or the feeling, as expressed by one teacher aide, "of being part of something exciting happening here." In fact two of the aides have become so exhilarated by the whole business that they plan to quit their jobs, go to college, and come back as full-fledged teachers.

That indeed might be one way for an aide to get a little better job security. School personnel are fully aware that "one day the money is going to run out" for this program, putting the employment of many of the aides in jeopardy. Hoping to cushion the impact of that eventuality, the school plans a renewed campaign for parental interest in Right to Read, perhaps even through radio spots that promote parent-child reading activities in the home.

One hoped-for result of such a campaign would be the recruitment of a solid base of parent classroom volunteers for the future. But it goes deeper than that, John Connelly emphasizes. "Really, the reading skills we teach the children at school are nothing unless there are some language development activities in the home. We can't have parents feeling that teaching the kids to read 'is only the school's job.' We want the parents to turn off the TV and read to their kids, and let the kids read to them. We've got to have that backup encouragement."

There's every indication that Sinclairville's infectious Right to Read program will yield precisely that kind of community sup-

port, a fact that has not gone unnoticed at school district headquarters. Sam Danton, chief school officer for the district, calls the Sinclairville experiment "a very dynamic thing, the way they've gotten so many people involved—really a tremendous thrust."

Though plainly proud and acutely aware of the implications for the rest of this school district, if not the State (the State Education Department is using Sinclairville as its model in a new Right to Read program of its own), Danton presses a note of caution upon those panegyrists who would oversell Sinclairville's success in teaching reading: "People say to me, 'Hey, you've found the answer.' Heck, we haven't done that. We've just got a group of people concerned about finding some answers that may be applicable in Sinclairville, New York." And at that, he contends, "It will be three to five years before we find out if we've made a dent."

At this point, possibly the most important things Sinclairville has to tell the world about, Danton believes, are its community involvement and needs assessment methods, either of which might well be modified for any type of major pilot program in any school system. Connelly agrees that "the process we went through" is the thing that makes the program go. "We really looked at ourselves critically—evaluated the students, the teachers, the materials we had. It wasn't one expert coming in with some sure-fire cure-all program."

Whether the "cure" they've finally settled on will be tonic for the school's former reading anemia is still uncertain. Iowa Tests administered last year, in the first year of the program, did reveal measureable gain in reading skills, schoolwide. But it's early yet, too soon to tell. No one's boasting.

"Of course we want to be able sometime to wave impressive test scores and other data," says teacher Arlene Josephson. "But I think the gain we'd really like to see is, simply, to have more children who like to read—more children with a good feeling about themselves."

FOR MORE INFORMATION

Additional information about the Sinclairville Right to Read program may be obtained by writing to Dr. John E. Connelly, Reading Center, Thompson Hall, State University College, Fredonia, N.Y. 14063.

EARTH DAY—1970 AND 1974

Mr. MUSKIE. Mr. President, on April 22, 1970, I was privileged to participate in the first Earth Week activities which were organized as a national movement by our distinguished colleague from Wisconsin, Senator NELSON.

In preparation for an Earth Day speech which I delivered yesterday, April 22, 1974, at the University of Indiana, I reviewed the speech which I delivered 4 years ago at the Philadelphia Earth Week Rally.

I was struck by the fact that I could have delivered the same speech yesterday; that, notwithstanding the legislation we have enacted, and the public awareness which has been stimulated, we have achieved so little in dealing with the problem.

And the little we have achieved has been put in jeopardy by the attacks of those who would use the energy crisis to reestablish the national ethic which I described in the following words 4 years ago:

Man has burst upon the environment like an invader—destroying rather than using, discarding rather than saving, and giving the environment little chance to adapt.

We have depleted our resources and cluttered our environment—and only recently have we been shocked by the enormity of our errors.

As long as Americans could escape the confines of the soot and clutter of our cities, the voices of those who were trapped and the warnings of those who understood were never really heard.

Pollution was isolated by the size and openness of America. A river here, a forest there, a few industrialized cities—these examples of environmental destruction seemed a small price to pay for prosperity.

This was the frontier ethic: America pushing ahead and getting ahead. We had an unlimited future under "manifest destiny."

Now we find that we have over-reached ourselves. The frontier ethic helped us build the strongest nation in the world. But it also led us to believe that our natural and human resources were endless, that our rivers could absorb as much sewage as we could pour into them, that there was automatic, equal opportunity for everyone, that our air would always be clean, and that hunger and poverty were always a temporary condition in America.

Early in the life of our country, we were absorbed in harnessing the energy of a people and the resources of the land and water.

But we are finding today—hopefully in time—that we have done much more than harness our resources: we have conquered them and we are on the verge of destroying them in the process.

We moved and changed and grew so fast that tomorrow came yesterday.

Man has always tended to use up his resources, but never have so many used up so much. We have behaved as if another Creation were just around the corner, as if we could somehow manufacture more land, more air, and more water when we have destroyed what we have.

I ask unanimous consent, Mr. President, that the speech of 4 years ago as well as that of yesterday be printed in the RECORD.

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

A WHOLE SOCIETY

(By U.S. Senator EDMUND S. MUSKIE (Democrat of Maine) at the Philadelphia Earth Week Rally, Fairmount Park, Philadelphia, April 22, 1970—3:30 p.m.)

One hundred and eighty-three years ago, a a small group of men gathered in this city in an effort to bring order out of chaos. They met in the shadow of failure. America had won her independence but was now in danger of breaking up into small and quarrelsome states. Their objective was to build "a more perfect union."

We have met in this city to help build a *whole society*—for we have seen the birthright of a free nation damaged by exploitation, spoiled by neglect, choked by its own success, and torn by hatred and suspicion.

The Founding Fathers did build "a more perfect union." They created a nation where there was none, and they built a framework for a democratic society which has been remarkable for its successes. We are now concerned with its failures.

We have learned that their creation was not infallible, and that our society is not indestructible.

We have learned that our natural resources are limited and that, unless those limitations are respected, life itself may be in danger.

We have also learned that, unless we respect each other, the very foundations of freedom may be in danger.

And yet we act as though a luxurious future and a fertile land will continue to forgive us all the bad habits which have led us to abuse our physical and our social environment.

If we are to build a whole society—and if we are to insure the achievement of a life worth living—we must realize that our shrinking margins of natural resources are near the bottom of the barrel.

There are no replacements, no spare stocks with which we can replenish our supplies.

There is no space command center, ready to give us precise instruction and alternate solutions for survival on our spaceship earth.

Our nation—and our world—hang together by tenuous bonds which are strained as they have never been strained before—and as they must never be strained again.

We cannot survive an undeclared war on our future.

We must lay down our weapons of self-destruction and pick up the tools of social and environmental reconstruction.

These are the dimensions of the crisis we face:

No major American river is clean anymore, and some are fire hazards.

No American lake is free of pollution, and some are dying.

No American city can boast of clean air, and New Yorkers inhale the equivalent of a pack and a half of cigarettes every day—without smoking.

No American community is free of debris and solid waste, and we are turning to the open spaces and the ocean depths to cast off the products of our affluent society.

We are horrified by the cumulative impact of our waste, but we are told to expect the use of more than 280 billion non-returnable bottles in the decade of the seventies.

Man has burst upon the environment like an invader—destroying rather than using, discarding rather than saving, and giving the environment little chance to adapt.

We have depleted our resources and cluttered our environment—and only recently have we been shocked by the enormity of our errors.

As long as Americans could escape the confines of the soot and clutter of our cities, the voices of those who were trapped and the warnings of those who understood were never really heard.

Pollution was isolated by the size and openness of America. A river here, a forest there, a few industrialized cities—these examples of environmental destruction seemed a small price to pay for prosperity.

This was the frontier ethic: America pushing ahead and getting ahead. We had an unlimited future under "manifest destiny."

Now we find that we have over-reached ourselves. The frontier ethic helped us build the strongest nation in the world. But it also led us to believe that our natural and human resources were endless, that our rivers could absorb as much sewage as we could pour into them, that there was automatic, equal opportunity for everyone, that our air would always be clean, and that hunger and poverty were always a temporary condition in America.

Early in the life of our country, we were absorbed in harnessing the energy of a people and the resources of the land and water.

But we are finding today—hopefully in time—that we have done much more than harness our resources: we have conquered them and we are on the verge of destroying them in the process.

We moved and changed and grew so fast that tomorrow came yesterday.

Man has always tended to use up his re-

sources, but never have so many used up so much. We have behaved as if another Creation were just around the corner, as if we could somehow manufacture more land, more air, and more water when we have destroyed what we have.

We have reached the boundaries of the land, and the tide of our civilization has now washed back into our cities.

Today's frontier is internal and personal. We now face—collectively and individually—a moral frontier.

That frontier is the point at which we are willing to cut back selfish exploitation in favor of selfless conservation.

That frontier is marked by the extent of our concern for future generations. They deserve to inherit their natural share of this earth—but we could pass on to them a physical and moral wasteland.

We have reached a point where (1) man, (2) his environment, and (3) his industrial technology intersect. They intersect in America, in Russia and in every other industrial society in the world. They intersect in every country which is trying to achieve industrial development.

On this day, dedicated to the preservation of man's earth, we confront our deteriorated environment, our devouring technology, and our fellow man. Relative harmony has become the victim of a three-cornered war—a war where everyone loses.

Our technology has reached a point where it is producing more kinds of things than we really want, more kinds of things than we really need, and more kinds of things than we can really live with.

We have to choose, to say no, and to give up some luxuries. And these kinds of decisions will be the acid test of our commitment to a healthy environment.

It means choosing cleaner cars rather than faster cars, more parks instead of more highways, and more houses and more schools instead of more weapons and more wars.

The whole society that we seek is one in which all men live in brotherhood with each other and with their environment. It is a society where each member of it knows that he has an opportunity to fulfill his greatest potential.

It is a society that will not tolerate slums for some and decent houses for others, rats for some and playgrounds for others, clean air for some and filth for others.

It is the only kind of society that has a chance. It is the only kind of society that has a future.

To achieve a whole society—a healthy total environment—we need change, planning more effective and just laws and more money better spent.

Achieving that whole society will cost heavily—in foregone luxuries, in restricted choices, in higher prices for certain goods and services, in taxes, and in hard decisions about our national priorities. It will require a new sense of balance in our national commitments.

Consider the national budget for 1971. That "balanced budget" represent unbalanced priorities.

That budget "balances" $275 million for the SST against $106 million for air pollution control.

That budget "balances" $3.4 billion for the space program against $1.4 billion for housing. And that budget balances $7.3 billion for arms research and development against $1.4 billion for higher education.

It does not make sense to say we cannot afford to protect our environment—just yet.

It does not make sense to say that we cannot afford to win the fight against hunger and poverty—just yet.

It does not make sense to say we cannot afford to provide housing and needed medical care—just yet.

We can afford to do these things, if we admit that there are luxuries we can forego, false security we can do without, and prices we are willing to pay.

I believe that those of you who have gathered here to save the earth are willing to pay the price to save our environment.

I hope, however, that your view of the environment will not be a narrow one.

The environmental conscience which has been awakened in our nation holds great promise for reclaiming our air, our water and our land. But man's environment includes more than these natural resources. It includes the shape of the communities in which he lives: his home, his schools, his places of work, and those who share this planet and this land.

If the environmental conscience which has brought us together this day is to have any lasting meaning for America, it must be the instrument to turn the nation around. If we use our awareness that the total environment determines the quality of life, we can make those decisions which can save our nation from becoming a class-ridden and strife-torn wasteland.

The study of ecology—man's relationship with his environment—should teach us that our relationships with each other are just as intricate and just as delicate as these with our natural environment. We cannot afford to correct our history of abusing nature and neglect the continuing abuse of our fellowman.

We would have learned by now that a whole nation must be a nation at peace with itself.

We should have learned by now that we can have that peace only by assuring that all Americans have equal access to a healthy total environment.

That can mean nothing less than equal access to good schools, to meaningful job opportunities, to adequate health services, and to decent and attractive housing.

For the past ten years we have been groping toward the realization that the total environment is at stake.

We have seen the destructiveness of poverty, and declared a war on it.

We have seen the ravages of hunger, and declared war on it.

We have seen the costs of crime, and declared a war on it.

And now we have awakened to the pollution of our environment, and we have declared another war.

We have fought too many losing battles in these wars to continue this piecemeal approach to creating a whole society.

The only strategy that makes sense is a total strategy to protect the total environment.

The only way to achieve that total strategy is through an Environmental Revolution—a commitment to a whole society.

The Environmental Revolution must be one of laws, not men; one of values, not ideology; and one of achievement, not unfulfilled promises.

We are not powerless to accomplish this change, but we are powerless as a people if we wait for someone else to do it for us.

We can use the power of the people to turn the nation around—to move toward a whole society.

The power of the people is in the ballot box—and we can elect men who commit themselves to a whole society and work to meet that commitment.

The power of the people is in the cash register—and we can resolve to purchase only from the companies that clean themselves up.

The power of the people is in the stock certificate—and we can use our proxies to make industries socially and environmentally responsible.

The power of the people is in the courts—and through them we can require polluters to obey the law.

The power of the people is in public hearings—where we can decide on the quality of the air and the water we want.

And the power of the people is in peaceful assembly—where we can demand redress of grievances—as we are doing here today and all across the land.

Martin Luther King once said that "Through our scientific and technological genius we have made of this world a neighborhood. Now through our moral and spiritual genius we must make of it a brotherhood."

For Martin Luther King, every day was an Earth Day—a day to work toward his commitment to a whole society. It is that commitment we must keep.

THE ENVIRONMENTAL AGENDA: PAST AND FUTURE

(Remarks by Senator EDMUND S. MUSKIE)

It is a pleasure to be with you this evening to talk about the progress and future of the environmental movement. Some of you may have participated in high school Earth Days in 1970, and are aware of the issues that dominated our discussion at that time.

At this time in 1970, Congress was warming up to a debate on the need to preserve clean air and clean up that which was already polluted. This effort culminated in the Clean Air Act of 1970.

We passed a tough water pollution control law in 1972, enacted the Resource Recovery Act, placed laws on the books to control noise, regulate coastal zone development, protect the public against toxic substances, control ocean dumping.

Now in the spring of 1974 the clock appears to have come full circle. We are once again fighting the issue of clean air, just as we were when the first Earth Day began.

I

Ever since then, opponents have waited for an opportunity to create an environmental backlash and then exploit it. They have chosen the energy crisis as the issue to fuel that backlash and are now attempting to reverse the environmental gains of the last several years.

The automobile companies who brought you ten miles per gallon now urge that the Clean Air Act be amended;

The oil companies who brought you 60 cents per gallon now urge that the Clean Air Act be amended;

The power companies who brought you their highest rates for small consumers now urge that the Clean Air Act be amended;

The copper companies who brought you lead poisoning in Smeltertown, Texas, now urge that the Clean Air Act be amended; and

The land developers who brought you exurban blight now urge that the Clean Air Act be amended.

They are mobilizing their propaganda efforts to challenge the validity of the environmental standards on the books. I am talking about attacks upon the health basis of the Clean Air Act—and the argument used is that "the public doesn't need and can't afford these goals."

Virtually every major company and industrial sector in America is now pressing forward with this argument. But all the information at hand to date indicates that if these standards are changed at all, they must be strengthened, not weakened. The more we discover about pollutants, the more we come to realize that Americans have suffered for decades from increased colds, increased bronchial attacks, increased heart disease, in-

creased respiratory ailments, and increased death rates because we did not understand and did not make the proper connection between pollutants and public health.

II

To date, these attempts have failed to generate broad public support—and for a very simple reason which has not escaped the attention of the would-be exploiters.

The people are aware of what is at stake and will resist such exploitation when given the chance!

Predictably, therefore, virtually every proposal discussed in Washington to weaken the Clean Air Act now carries the direct threat of eliminating local involvement in the decision-making process:

They would deny localities the right to control decisions to locate energy facilities in local areas.

They would deny local bodies the right to vote local segments of highway networks.

They would deny people at the grass roots the right of determining whether or not their community should be altered forever by the construction of an oil refinery.

In short, the proponents of the environmental backlash would like to preempt local decision-making and deny public access to decisions that may totally change the nature of communities.

The energy crisis has shocked us into an awareness of the fact that we are moving from any age of apparently unlimited abundance to one of potential scarcities and shortages—shortages of air and water, shortages of energy, shortages of a growing list of essential resources.

Those shortages will trigger intense competition for such resources and for the right to decide how such resources should be used and allocated.

The effect can be to impose limits upon our freedom—and it is to that subject that I would like to devote the remainder of this talk.

These days when a political speaker mentions freedom, his listeners naturally expect to hear about wiretapping, snooping, invasions of privacy, government law-breaking and the other evils we have come to lump under the heading of Watergate. I feel strongly about those abuses of government authority. I have spoken of them often and angrily.

But the freedoms I have in mind are the diversity of choice Americans expect in their lives; the independence of action that has made it possible for individuals to better their communities by bettering themselves; the latitude in social and economic behavior that comes from knowing that there is always a new place to go to, that there is more land to farm, more wood to cut, and more water to drink than we need.

Our political liberty is unique in the history of the world because it has been supported by a natural abundance that was unique. That abundance called to our ingenuity, and a uniquely American imagination, an experimental spirit, answered back with the courage to exploit our vast resources.

You are familiar with the bleak mathematics of our energy supplies and the demand we put on them. You know that with six percent of the world's population, we consume 35 percent of its total energy. You know that our 111 million vehicles consume six million barrels of gasoline a day, one-third of all the petroleum products we use in a year—an amount roughly equal to what we now must import from abroad. And you know how wasteful that use is—with automobiles shooting 87 percent of their energy intake right out their exhaust pipes. You know that per passenger mile, a car uses five times as much fuel as a train and six times as much as a bus.

You also know that while our population doubled in the last fifty years, our use of energy quadrupled. You know that the rate of increase in energy consumption in recent years has been running at five percent annually. And you know that if that rate continues, we are likely to be reliant on foreign oil to supply half our consumption in 1980.

You probably know as well that we depend on imports for many of the minerals that are crucial to our industrial processes. Eighty percent or more of the chromium, manganese, bauxite, tin and nickel we use now comes from abroad. By the end of the century experts estimate, we will be importing more than half the tungsten, zinc, copper, iron, lead and sulfur we need.

When you look behind those calculations, you see that they rest on two assumptions. One is that our growth will continue more or less at present rates. And the other is that raw materials will continue to be available to sustain such growth indefinitely.

Neither assumption is realistic. There is increasing evidence that accessible supplies of many vital materials are dwindling as the world's appetite for them grows.

Abundant coal, some argue, is a viable alternative energy source as oil becomes scarce and costly. But stripmining of coal ruins land that could be used for farming. And conversion of coal into energy requires vast amounts of water we do not have. A resource that is too expensive to use either in economic or social terms is not a reserve on which we can plan to draw extensively.

Once we recognize that resources are limited either by their availability in nature or by the environmental cost of converting them to our consumption, then we have to recognize that growth, too, must be limited. And the question to ask is how those limits will be fixed.

Will those limits be imposed by the rich nations using their power over the poor to sustain the existing gap between standards of living? The oil embargo has answered that question.

Many economically backward countries, in fact, control the mineral deposits the industrial world needs. They will not give them up cheaply, and they can be expected to insist that the advanced nations pay the bill for the catch-up efforts of the have-nots.

Then will limits be set only after population and per capita consumption have created demands so far beyond supply that anarchy and social collapse bring the world back to reality through catastrophe?

Such destructive events occur often in nature when herds of animals grow too large for their feeding grounds. Mass starvation follows, and the surviving, smaller animal population, having lost much of its supporting pasture through overgrazing, stabilizes at a lower level than it had in an earlier, healthier state.

Men, however, are social animals, capable of forethought, self-discipline and planning. Since we are blessed with that capacity, I do not fear that only disaster will make us use it.

But I do recognize—and this is the theme I stated at the beginning—that the imposition of limits on our growth inevitably requires limits on our freedoms. And the real question is how a democratic government can set those limits with the consent of the governed.

Let me just suggest some of the obvious—even easy—restrictions that would become part of the pattern of our lives if we just set as our goal a 2.5 percent per year increase in our energy demand—half the present growth rate. We would have to cut the average weight of our cars from 3,500 pounds to 2,900 pounds. We would have to legislate standards for space heating in new buildings and restrict commercial lighting by law. And we would have to keep the population growth rate in this country at its present level.

Some of those decisions—really allocations of scarce energy—could be made by the government and the market without enormous difficulty. Consumers are already signalling their preference for smaller cars to the automobile makers, but customers and manufacturers alike might agree that a law banning the construction of large automobiles would represent an intolerable intrusion on free choice. And a family planning law prohibiting more than two children per couple would be dictatorial.

Yet, if our goal is to be more ambitious than that of cutting growth in half—if our need is a system of resource replacement equal to resource consumption—then no easy conservation measures will serve. An economy grounded on the necessity to recycle everything from solar energy to human waste will require the toughest kind of restrictions on consumption, the most drastic changes in behavior.

Imagine laws that require you not just to separate your garbage into three or four different categories—metal, glass, wood products, and animal fats, for instance—but to deliver bottles and cans to central community pick-up points and to make your own household wastes into compost for fertilizer. Or imagine whole neighborhoods being put on timetables governing when housewives can and cannot run their washing machines. Or imagine gas rationing that makes it impossible for you to use your private car to take vacations more than 150 miles from your home. Or imagine downtown parking restrictions that force you to use public instead of private transportation during the work week.

The fact is that such restrictions are imaginable. Scarcity makes them conceivable, just as abundance made the wastefulness of our past practices tolerable.

Any such restrictions—and they could span the range of social choices from the kind of car you drive to the kind of house you live in to the opportunity you have to change your job and your home—run completely counter to all our American precepts of liberty. Those values define the freedom which distinguishes our Nation and our history from that of the rest of the world. They have made our society open and our lives rich, and we cannot afford to lose them.

Yet we know that we must conserve, we must restrict, we must limit ourselves and the use of our resources. The facts give us no choice if we are to survive and prosper. The only way to balance the preservation of our freedom with the preservation of our planet is to adopt a new ethic, a style of cooperation in allocating resources that insures that we join in deciding the confines of our lives.

The alternatives are either coercion from above—based on the physical reality of scarcity—or cooperation from below—based on our common appreciation that independence cannot be total, that self-sufficiency in a mass society on a crowded globe is self-delusion.

Nine years ago, just before he died, Adlai Stevenson coined the idea of a "spaceship earth" when he said, "We travel together, passengers on a little spaceship, dependent on its vulnerable reserves of air and soil." We know now that spaceships can support life only as long as they use and reuse every life-sustaining element they carry in what is called a "steady state." We know that any waste, whether accidental or selfish, in such an environment destroys the steady state and dooms the ships to disaster.

On our planet, as on a spaceship, we must implement the concept of a steady state by accepting our mutual dependence. Politically, that acceptance means an active role for every citizen in analyzing the choices to be made and in helping make the choices which offer the most people the greatest opportunities for valuable lives. The decisions will be

difficult and painful, but just because of that, they must be completely understood in advance and widely shared.

I know that the phrase "participatory democracy" was recently regarded as a radical utopian concept. I would leave you tonight with the thought that participation and cooperation are the only means to preserve democracy under the imperatives of scarcity.

When the poet, Archibald MacLeish, first saw the pictures of our planet taken from the moon, he wrote:

"To see the earth as it truly is, small and blue and beautiful, in the eternal silence where it floats, is to see ourselves as riders on the earth together, brothers on that bright loveliness in the eternal cold—brothers who know they are truly brothers."

Brotherhood is both a form of freedom and a promise of sacrifice. As we learn that our planet is a fragile physical support, we learn as well that cooperation is what holds it and us together. We learn to see ourselves as free men able to give up that part of our freedom which is license, and able to give it up by our own choice in order to preserve freedom for all men.

THE ESQUIRE CLUB, INC., OF CINCINNATI

Mr. TAFT. Mr. President, it is with sincere pleasure that today I salute an organization that has performed almost four decades of service in promoting civic leadership, and recognizing standards of academic achievement among teenagers. I pay this honor to the Esquire Club, Inc., of Cincinnati.

The Esquire Club was organized in Cincinnati in May of 1939. The founder and first president was Amos Rice who fostered a vision of togetherness among men for the purpose of promoting closer relationship among friends of the community.

Mr. Rice was joined by eight associates who shared his views and it was through their collaboration the Esquire Club embarked upon its mission. From its meager beginning when its civic work consisted primarily of helping needy families at Christmas time and donations to various charitable organizations, the Esquire Club today has attracted the membership of many of Cincinnati's black citizens and has directed the activities of the club toward the building of character and promoting a higher sense of moral values and standards, socially and educationally among the teenagers.

In 1955 the Esquire Club conducted its first annual Debutante Cotillion, thereby affording the club the opportunity to pay tribute to deserving high school seniors and making possible their formal debut to society. In 1963 the Esquires established a scholarship fund for girls with outstanding scholastic achievements in finishing high school. This program has met with much success. Through its scholarship program, the Debutante Cotillion, and its donations to other civic and charitable groups, the Esquire Club has made an invaluable contribution to the Cincinnati community.

On April 27, 1974, the Esquire Club will conduct its 19th annual Debutante Cotillion at which time four more young ladies will be chosen to participate in its scholarship program. I wish to enter into the RECORD a letter of recognition of the Esquire Club for its unselfish contributions and leadership and a personal recognition of its members. Louis B. Williams, president; Walter Hill, vice president; Richard C. Lovell, recording secretary; Dr. George Colin, corresponding secretary; William Owens, treasurer; Dwight Potter, president emeritus; Jack Browning, Louis Davis, Frederick Haygood, John Mitchell, Dudley Riley, Sr., Sandy Sherman, Ted Smith, Ernest Thatcher, Carl Triplett, and Dudley Riley III.

SENATOR CLARK ON RURAL DEVELOPMENT

Mr. HUMPHREY. Mr. President, I wish to bring to the attention of the Senate the remarks by my colleague, Senator DICK CLARK, on April 11 before the Coalition for Rural Development.

Senator CLARK has done an outstanding job in the brief time he has been in the Senate in providing leadership in the field of rural development.

This is indeed, a difficult and complex area, but I agree with Senator CLARK that our track record in getting the rural development program started is just not adequate. There are a wide variety of issues affecting rural people from energy and transportation to health and dental care which require prompt attention.

Senator CLARK announced that the Subcommittee on Rural Development of the Senate Committee on Agriculture and Forestry will hold hearings on May 8 and 9. At this time, it will be possible to explore these and other critical rural development issues in greater detail.

Mr. President, I commend the remarks of Senator CLARK to the attention of this body and I ask unanimous consent that the full text of his speech be printed in the RECORD.

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

REMARKS BY SENATOR DICK CLARK

Although I am an optimist by nature, it would be safe to say that when it comes to the subject of rural development, I am an unhappy and dissatisfied man.

I am not altogether naive—I was once a Congressional assistant—but I had a rather unusual thought: that when Congress passed a law, the Executive department made sure that it was carried out.

Despite what the civics books say, that has not been the case with the Rural Development Act of 1972, and you all know it better than most people.

All of us know that there are start-up problems with any new legislation. All of us know that the Rural Development Service has had staffing problems, that the Soil Conservation Service, the Farmers Home Administration, and the Forest Service have been hampered by staff and money cutbacks.

And all of us have been sympathetic with these problems. We have attempted to hold rural development oversight hearings in a non-partisan manner, and we told Assistant Secretary Irwin that we would delay the hearings for a while to permit his staff time to get the business and community-facility loan programs started.

I do want to say that I have found Secretary Irwin and his staff to be congenial and cooperative. And there is no question of their commitment to rural development. Unfortunately, the same cannot be said for the administration as a whole.

The Rural Development Subcommittee agreed to postpone oversight hearings, but we did not agree to abandon the commitment to rural development.

As of March 1st, the Department had requests for 1,540 business and industrial loans. As of April 5th, only 31 have been approved. As of March 1st, there were 235 requests for $77.8 million in loans for essential community facilities, but as of April 5th, only seven loans had been made. There is a small appropriation of $10 million for grants for industrialization support facilities in the Act. So far, there have been 134 requests for this money, but, to date, only five grants have been made. And all of this is just the tip of the iceberg.

Under the law, every business and industrial loan and grant request must be sent to the Department of Labor for certification that a new project is not taking jobs from one place only to put them in another place. The Labor Department arranged with the Economic Development Administration to handle a part of this work, but it did not see fit to reimburse EDA for its expenses on the work—so the applications just sat there. No one worked on them.

When it comes to rural development, all we ever seem to hear is: "We can't do this, we can't do that. Because of this problem and that problem."

All of this shows that after almost two years, there has been virtually no significant benefit to the people of rural America under the Rural Development Act. I can understand the argument for easing into the build-up period—but not at this rate.

There's an agency in the Agriculture Department—with dedicated people—and there are programs on paper. But that's not the real test of legislation. The real test is the beneficial impact and effect of the legislation on people, on farms, on rural towns and communities. And by that standard, the Rural Development Act has not succeeded.

This government is the most powerful single institution in the world. Excuses will not work. Let me give you an example of what can be done, even by a reluctant administration: Several years ago, Senator George Aiken, a distinguished Republican, proposed the rural water and sewer program. He was vigorously opposed by the Democratic administration, then in the White House. But Senator Aiken won that battle, and he was invited to the White House for a bill-signing ceremony. The following day, the Senator was flown aboard Air Force One to Vermont, to preside over the ground-breaking of the first rural water and sewer project.

The administration originally opposed the measure. No regulations were written. There was no appropriation. They just got the job done.

There is no need to mention, I suppose, the efforts of this administration to take steps toward the elimination of Senator Aiken's vital program.

The contrast between action and inaction, commitment and excuses is clear. And it is no wonder that the people of this country look at the government as some sort of inept giant . . . making promises which it does not fulfill.

On May 8 and 9, my subcommittee on rural development will resume its hearings to try to get the grants funded on rural development. Let me review some of the things we plan to look into:

First and foremost, we will want to consider the quality of implementation of the Rural Development Act, and the plans for implementation during fiscal 1975.

I have asked the General Accounting Office—the investigative arm of Congress—to do an evaluation of the regulations under Title One and Title Five of the Act. Senator Bellmon has asked GAO for a similar analysis on Section 603. So we're going to be ready

to discuss these areas with the Department spokesmen when they come to testify.

We also will want to discuss with the Assistant Secretary the proposed budget for fiscal 1975, and the plans of Farmers Home to shift its emphasis to housing rehabilitation rather than housing construction.

As you all know by now, the President has sent the public works committees a new Economic Adjustment Act. Where this proposal would affect rural development we will examine it during the hearings for its good points and its bad points. For my own part, I see little need at this time to abandon EDA, which is one of the best functioning programs in the government.

The Executive Committee of the National Governors Conference has offered its own development proposal. It calls for wall-to-wall regional agencies, modeled somewhat after the Appalachian program and backed up by multi-county planning and development agencies and multi-district agencies. We will take a close look at this plan.

I think all of us have been concerned in the back of our minds about what long-term effect the energy crisis will have on rural economic development. For example, you probably know that Mr. Guntharp has asked the Economic Research Service for a report on this. And I have sent 12 pages of questions on this subject to USDA and to the Federal Energy Office. When this material is returned, I plan to combine it with a report on the environment and rural development, being prepared by the Congressional Research Service, and a report on energy and rural development being put together by the National Area Development Institute. This should constitute an important committee print.

Incidentally, we now have three committee prints at GPO. There is one on rural industrialization—in addition to being a how-to manual, it also talks about problems and promises associated with rural industrial development. Secondly, there's a print pending on the use of the land and its relationship to rural development. This one is heavily oriented toward agriculture and the ability of land use planning to protect agricultural and forested acreage. Finally, we are complementing the two prints on the problems of moving things in rural areas with a print on moving people—a print on rural transportation. The full committee also is reprinting the recent transportation report submitted to Congress by USDA. I hope that you have these reprints and use them.

But back to our hearing. The Comprehensive Employment and Training Act authorizes the continuation and merger of many different manpower development and training programs. I want to ask the Department of Labor how they intend to provide manpower service to rural Americans, and how they intend to replace existing programs for public service employment for older rural workers under Title Nine of the Older Americans Act of 1973. What will happen to operation Green Thumb? What will happen to concerted in-service training and education?

The administration's actions under these programs is a source of great concern. As a matter of fact, when the manpower program was proposed for Lexington, Kentucky, and the surrounding rural areas, the state ruled that the money only could be spent in the metropolitan Lexington area. If this is the case nationwide, we've got a real problem, and we'll ask about this as well.

Naturally, we strongly urge the coalition and its members to testify on any subject which might have any relevance to the broad area of rural development.

In conclusion, let me tick off some issues all of us should be watching.

Rural health is one of the biggest. We haven't come close to solving the problem But we have made a beginning—the new law setting up health maintenance organizations. 30 percent of these HMOs will be rural. But that's only a beginning. Like the weather, rural health care is something everybody discusses, but few can do anything about. It is an issue that has surfaced again this year, one in which all of us have a vital stake.

As the Senate and House of Representatives begin debate on proposals for a new or drastically revised health care system, we have to ask ourselves one question: will the Congress recognize the special needs and problems of our rural population?

As a nation, we have failed miserably to protect the health of people in rural areas. The health services that generally are available are not only inadequate in coverage, but deficient in quality. What we find in rural America in the area of health care is not what is needed or desired, but rather what has been left behind. One health expert put it best when he said: "Rural health conditions in this country today are the heritage of decades of indifference."

The problems of health care in rural areas are complex, serious, and above all persistent. The health care crisis experienced by the entire nation—in terms of poor access to services, shortages of manpower and high costs—are severely aggravated in rural America.

We know that:

Rural areas are isolated from centers of care;

Fewer and fewer doctors tend to locate in rural communities;

The health needs of rural populations are greater than those in metropolitan areas.

As a nation, we must have the courage and the strength to make the commitment to make rural health care what it should be and what it can be in this country.

The economic and social conditions in rural America have had a profound impact on the health of its people. Poverty is a dominant theme in rural life. One of every six rural persons is poor, and, as we all know, if you're poor, access to health care is more difficult. It's harder to locate health care, harder to reach it, and harder to pay for it. And poverty also means greater susceptibility to ill health.

Even rural Americans who are not poor have great difficulty obtaining adequate health services. The more rural a county, the more inadequate its health services are likely to be. Sparse populations make it difficult for rural communities to compete with metropolitan areas. High and rapidly-spiralling costs of modern medical equipment and services only serve to increase the disadvantage.

The shortage of physicians is most severe in non-metropolitan communities. In Iowa, half the state's doctors are located in the six most populated counties. And in one-fourth of Iowa's counties, there is not one specialist. Nationwide, more than 87 percent of all physicians in medical specialties are located in metropolitan areas.

The distribution of dentists in rural areas tells the same story—rural America is not getting its fair share. While it may be safe to say that there is neither a shortage of hospitals nor hospital beds in rural areas, that doesn't tell the full story. The adequacy of hospital care cannot be measured solely in numbers. Rural hospitals are usually smaller, more often inadequately staffed, poorly equipped, and lacking out-patient and extended-care facilities. Add to these factors the special characteristics of rural populations, and you come out with a very grim picture.

In rural areas, infant mortality rates are higher. The incidence of chronic conditions and work-related injuries are greater than in urban areas. Heart disease, asthma and diabetes—conditions which cause the greatest drain on family finances—are clearly more prevalent in rural areas. Rural people have almost twice as many activity-limiting illnesses as urban populations, and rural men employed in blue collar jobs have the highest rate of work-related injuries in the nation.

The health problems of rural America are readily apparent and terribly complex. In extremely isolated areas, there may be no ambulance, no hospital, no doctor, no help at all. The solutions to these problems will not occur overnight. They will take years and years of the combined efforts of thousands of individuals, communities and institutions.

Within the next few years, possibly even this year, the nation can anticipate some form of national health insurance. Ten major plans have been proposed in the 93rd Congress so far, and they represent widely varying and divergent viewpoints. None, however, in my opinion, deal adequately with the unique health problems of rural America. Indeed, a number of them ignore the problem entirely.

As a group that represents the best interests of rural America, you can and should play a major role in shaping national health insurance legislation. Representative Mills, chairman of the House Ways and Means Committee, will be holding hearings later this month and next month on this issue. He has invited a number of public witnesses, and I can think of no better forum for our voices to be heard. We need to express the interests of rural citizens to ensure that "the decades of indifference" end. That way, we'll make sure that this is a nation that lives up to its principles—and a nation that is stronger because of that conviction.

But rural health is only the beginning of the unfinished business that faces us. There has been a great deal of parochialism expressed about the energy crisis—will major rural development tend to gravitate to the energy-rich states? What effects are 75 and 85-cent-a-gallon gasoline prices going to have on the rural poor?

And what about agriculture? What will be the effects of inflation and shortages on the cost of production, a cost that rose 17 percent last year? The Farm Credit Administration predicts it will go up 15 or 20 percent more this year. We must insure that farmers get fair and reasonable prices for their labor, and we must see that the housewife is able to get abundant food at fair prices.

In that light, I am very concerned about the ability of the transportation system to move crops to market this year and in years to come, especially if railroads are allowed to abandon lines indiscriminately.

Following on the heels of the energy crisis, we can expect to see growing shortages of non-renewable raw materials. It will require some significant switch-overs in technology and the American way of living, now epitomized in many respects by the garbage disposal and trash masher. We will have to apply the ancient art of husbandry throughout our society. We will have to turn problems like animal and human wastes into assets such as fertilizer and methane gas.

If you hadn't noticed, the Environmental Protection Agency is making millions of dollars more in sewer grants in rural areas than the FHA, and EPA does not see sewer systers as tools for development. What effects will this have on rural development? I'm not sure.

Now, let me say a final word on housing. The House should adopt the rural provisions of the Senate-passed housing bill. Senator Hathaway did a fine job for rural people

in this legislation, and I hope that his good work can be preserved on the House floor. This bill represents a major breakthrough for dealing with housing the rural poor. It must be enacted.

More importantly, it must be repeated in many other areas—in job training, in health care, in education. The farms and small towns of this country have made a very significant contribution to the success and prosperity of America. In return for that contribution, they have a right to expect more than the inadequate health care, the inadequate educational assistance, and the indifference of government that they have been receiving.

I think Congress can make a difference. I think you can make a difference. Whatever the outcome, the cause is well worth the effort.

BEYOND PHILANTHROPY: CULTURE AND THE CORPORATION

Mr. JAVITS. Mr. President, in a significant address to the Business Committee for the Arts on April 4, David Rockefeller, chairman of the board of the Chase Manhattan Corp., discussed how business can help the arts. Mr. Rockefeller pointed out that the arts are in financial trouble despite an increase in funds contributed by the private factor. He urged that corporations should go "beyond philanthropy" in helping the arts become more self supporting through such means as budget and accounting assistance to nonprofit arts groups and through utilizing advertising and public relations skills to help organizations reach larger audiences.

Mr. Rockefeller stressed that the American business community must help hard-pressed arts institutions to "create a sounder, less-inflation-prone economic footing" and also increase its efforts to "make a case for the arts to government officials at all levels and to the general public."

I ask unanimous consent that the text of Mr. Rockefeller's speech be printed in the RECORD as part of my remarks:

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

BEYOND PHILANTHROPY: CULTURE AND THE CORPORATION

(Remarks by David Rockefeller)

It's a special pleasure for me to be able to participate in this 7th annual meeting of the Business Committee for the Arts.

After such a splendid dinner, however, it is an assignment I take on with considerable trepidation. It's bad enough to have the dour image of a banker, but even worse to be the only thing standing between a satiated audience and sleep!

Of course, performers in the arts must endure this challenge daily, and I have the distinct advantage tonight of a highly dramatic setting. This includes, I am glad to note, a fine example of corporate cultural support—the exhibition of Giacometti's work sponsored by Alcoa.

I've also been warned that, during my talk, First National City Bank may sponsor a streaker!

Henry James once wrote that the typical American viewed culture as the special concern of "women, foreigners, and other unpractical persons!"

While I certainly hope that these people maintain their concern, I'm delighted this evening to see as well so many specimens of the native American male!

Despite its youth, the Business Committee has clearly made its mark on our cultural scene. Serving as a catalyst of corporate interest, it has had a profound effect on the perception by business of the arts in America. Through its educational programs, its counseling services and its nationwide conferences, it has made an eloquent and convincing case for corporate cultural involvement.

Corporate contributions to arts organizations have risen from $22 million in 1965 to over $140 million in 1972. The arts still receive only a tiny fraction of total corporate giving, but I believe this increase is significant given the other social challenges that business has taken on in recent years.

I am tempted on this pleasant occasion to offer some traditionally uplifting remarks on the role of the arts in a democracy, and how they enrich our lives. It is obvious, however, that neither our society nor its culture thrives on rhetoric. Despite progress, the arts are in grave trouble on many fronts.

Tonight I would like to focus briefly on how I believe the arts might attain more self-sufficiency. First, I will make some general observations on the challenges faced by non-profit arts organizations. Then I will suggest two specific areas where I believe steps can and must be taken to improve the situation.

In surveying our artistic landscape, one is struck by a number of paradoxes.

At the same time that a major symphony orchestra must suspend its operations because of lack of funds, a folk hero can gross over $5 million on a national tour.

At the same time that a major opera company must curtail its performances, a popular motion picture can gross tens of millions of dollars at the box office.

Or again, even as some new cultural centers continue to spring up all over the country, seemingly similar institutions in many other communities are on the verge of financial collapse.

Ironically, the very success that brings massive income to commercial cultural ventures is posing major financial difficulties for non-profit arts organizations. Even as they attract larger audiences and extend the reach of their operations, they are being asked to involve themselves in a whole range of additional services to the community.

Such non-profit arts institutions do not, however, have regular sources of revenue to make possible expanded services and higher labor costs, and cannot easily pass these costs on to their consumers. If only because of inflation, some price increases *have* been necessary, but the danger of losing audiences prevents increases that could narrow the gap between earned income and expenses.

Such dilemmas have profound side effects beyond cultural facilities. It has been estimated, for instance, that recent strikes at arts centers in New York cost local businesses more than $1 million. Diminished cultural activity can bring economic chaos to a city, affecting not only business specifically dependent on tourism—such as hotels, restaurants, and stores—but all commercial enterprise. Certainly, at Chase, we would have a hard time attracting managers without New York's cultural vitality, and our recruiters have become well aware of the competition as regional cultural centers emerge.

Other cities from Washington to Houston, from Saratoga to Akron, have found how much excitement is generated by a community's artistic rejuvenation. At the very least, the construction of arts facilities has the effect of increasing real estate values and stimulating the local economy. In New York, it is estimated that Lincoln Center has spurred the erection of other new buildings in the neighborhood which have increased the City's annual tax revenues by over $30 million.

So, at this point in history, I believe the general case for business support of the arts has been well made. The pioneering effort of the BCA has definitely brought home to the corporate conscience the economic significance of cultural vitality.

Yet I am not sure the charge to business has been broad enough. Though many means of support beyond money have been generated, the concept of help has tended to remain narrowly philanthropic—a question solely of direct financial support rather than active participation. Of course, direct assistance must be increased, but I am convinced we must also vigorously seek out ways in which business can help the arts transform their economic base to become more capable of bridging the ever-present gap between costs and income.

There are two areas in particular I would like to touch on.

1. How the private sector can help support the arts through more imaginative use of its non-financial resources.

2. How both the public and private sectors can work together to generate a stronger base for the arts through more effective non-philanthropic approaches to cultural activity.

On the first point, let me say that corporate efforts to aid the arts must continue to be innovative over and above direct financial support.

Business can provide budget and accounting assistance to non-profit arts groups. Advertising and public relations skills can be of immeasurable value in enabling organizations to reach wider audiences. Real estate experts and attorneys can often make the difference between the life and death of struggling non-profit institutions. Locally, to focus such efforts, the New York Business Resource Center is harnessing the expertise of business school graduates from Harvard and other institutions on a volunteer basis.

Corporations can heighten interest on the part of their employees by providing greater cultural exposure, through lunchtime events and after-hours programs, as well as through an aesthetically stimulating work environment. Employees can also be encouraged, by matching grants from the corporation, to donate to cultural institutions. Excellent plans have already been adopted by such companies as Corning Glass, Gulf & Western and Cerro, and it is an idea that deserves wider implementation.

Multinational corporations can also play an important role in facilitating the exchange of writers, musicians, dancers and other artists between countries. Greater cultural interactions among nations can do much to bridge the tragic differences and misunderstandings that divide the global community.

Business, through direct personal involvement, can help dispel the uncertainty regarding the financial aspect of arts activity. The arts have long been hampered by lack of clarity about their fiscal structure. Solid data has been extremely difficult to uncover, and it is only in the last decade that systematic efforts have been made to study the arts in depth as an economic force. Establishing a more comprehensive data base is key to enlisting further support for the arts, and this could constitute an important subsidiary role for businessmen to play.

In addition, if cultural vitality is in the interest of business, as I believe it is, then business must increase its efforts to make a case for the arts to governmental officials at all levels, and to the general public. Here, the media can be especially important in

deepening public understanding of this issue and encouraging more governmental financial backing for the arts.

There are clearly many more ways in which business can help. Indeed, the Business Committee has come up with 126 suggestions—a rather impressive list.

What does not seem to have happened, however, is a basic re-thinking of how fundamental business techniques might be employed to create a sounder, less inflation-prone, economic footing for non-profit organizations. Perhaps given more innovative marketing approaches, the symphony might be able to share some of the revenues, as well as the prestige, of the folk hero.

In addition, better management, tighter financial controls, and more sophisticated labor relations techniques are badly needed by many organizations. There is, of course, a limit to how much one can increase the productivity of an orchestra, a museum, or an opera company. There is no known way, I am happy to say, to automate a singer or dancer or musician. Yet certainly business experience should be called on more extensively to help non-profit organizations with the full range of their labor relations and fiscal management problems. After all, if business is providing financing to the arts, it is in its own interest to see that this has maximum impact.

This brings me to the *second* area I would like to touch on—the need to accelerate joint efforts by both the public and private sectors to make our cultural institutions increasingly self-sufficient.

Federal support for the arts through the National Endowment has increased from $2.5 million in 1966 to over $60 million in 1974. Here in New York State, support has grown from a mere $50,000 in 1961 to at least $19 million—and hopefully substantially more—this year. Similar programs in other states are also blossoming, and many cities, including New York, are stepping up their efforts to aid the arts.

The rate of growth of public support for the arts during this period has considerably exceeded that of business support, although government subsidies remain far lower on a per capita basis here than is to be hoped for. There are, I believe, fundamental implications in these facts for our cultural institutions which have traditionally relied—and still rely—primarily on private patronage.

Many feared that public funding would mean subtle state control or inept meddling. Indeed, the painter Larry Rivers likened government involvement in the arts to a gorilla trying to thread a needle!

Happily, these dire prophecies have not come true—at least up to the present. As we look to the future and to rapidly escalating costs, however, it is clear that the public sector must play a larger and larger role.

On the other hand, private funds have provided continuing flexibility and a buffer against potential interference. Last year it is estimated that well over $1 billion was donated to the arts by the private sector—individuals, foundations, and corporations. Since this funding pattern is such a critical source of artistic pluralism, it is vital that it continue to increase along with public funding.

Beyond who will pay for the arts, there are basic issues of how enough money can be raised and how all of the various participants can work together more successfully. The resources of both the public and private sectors must be harnessed more creatively.

A number of highly imaginative proposals and actions toward this end have recently been developed.

In New York City, a Special Theater District was created through revised zoning provisions which allowed office building developers certain space concessions if they included theaters in their structures. Five new theaters have already resulted from this collaboration, helping to rejuvenate New York's principal entertainment center.

Another city—San Francisco—earmarks a portion of its hotel room taxes for support of cultural institutions, an approach which recognizes the impact of the arts on a city's economic health. A good deal of attention is also being given in some cities to the appropriation of a percentage of other taxes and capital budgets for public art and better design. Again, this device acknowledges the fact that a pleasing environment nourishes both the human spirit and the municipal coffers.

Restoring districts and structures that can provide a continuing link with the past is also important in keeping alive our nation's cultural heritage. One innovative example in New York, combining new funding techniques and commercial usage, is the proposed renovation of the U.S. Custom House. Though still in the formative state, this project is designed to transform a venerable landmark into a vital, functioning cultural institution. Moreover, through continuing commercial income for programing, it can in effect be self-endowed.

The distinctive quality of these undertakings is that they go beyond philanthropy. By combining commercial potential with cultural substance, they allow for the alleviation of capital expenses and, in some cases, for generating revenues to offset operating expenses. I am sure many other similar approaches could be developed if we scrutinized existing laws carefully and employed business expertise imaginatively.

A proposal now exists to explore in detail the potential of such ingenious methods. This seems to me to be the sort of effort business should vigorously support and in which its talents should be called upon extensively.

The desirability of more complex and sophisticated forms of support underscores the need for more effective coordinating mechanisms among all organizations concerned with the arts.

I am not suggesting that any new permanent organization be established. Rather, what is needed is more effective liaison between existing organizations—in the arts, in business, in government, and in philanthropy. We are fortunate, indeed, to have such fine groups as the BCA, the Associated Councils of the Arts, and the National Endowment, as well as many state and local arts councils and chambers of commerce. If separate roles are better clarified, and cooperative efforts augmented, the arts can only benefit.

The most important form of cooperation is that which will generate ideas and methods to improve the basic economic footing of the arts. In this regard, I feel that it might be helpful if BCA would take the lead in establishing a task force of representatives from business and the arts to explore mechanisms for cultural self-sufficiency and more substantive involvement by the business community. Calling on corporate expertise in systems analysis, real estate, taxation, law, economics and other areas, as well as specialists in the arts, this task force could help organizations examine the feasibility of new concepts and suggest procedures for their implementation. It might focus initially on three major challenges I have mentioned—improved labor relations, better fiscal controls, and the design of innovative funding techniques.

It is vital to dispel the perennial suspicion that has existed between business and the arts. Just as some in business have often criticized the allegedly non-productive nature of arts activity, members of the artistic community have decried the callous inattention to human values on the part of business. Ideally, closer participation in arts activities by business will give it a more sensitive understanding of how culture can ennoble a society. At the same time, greater adherence by arts organizations to a more "businesslike" approach to their own operations will make it easier for them to generate needed support.

As we approach the bicentennial celebration of the founding of this country, it would be tragic if the momentum gained through the work of the BCA and other groups were lost because of a failure of energy or imagination. We must intensify our conventional means of aid to the arts, but today's challenges cannot be met by yesterday's responses. Growing governmental funding is both necessary and inevitable, but broader private support is absolutely essential as well if the arts are to maintain their independence and vitality. Toward this end, we must seek out pioneering ways beyond traditional philanthropy to strengthen our cultural institutions.

A nation's health is measured not only by its gross national product, but also by the richness and diversity of the creations of its artists, writers, composers, and painters. Each of us, as members of the business community and concerned citizens, justly proud of our nation's cultural heritage, must make a determined and continuing effort to nourish this vital segment of American life.

DÉTENTE NOURISHES A NEW U.N.

Mr. McGEE. Mr. President, the March 23 issue of the Saturday Review World contains an interesting and useful article on the U.N. by Max Jakobson entitled "Détente Nourishes a New U.N."

I believe this article deserves widespread attention 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:

DÉTENTE NOURISHES A NEW U.N.

(By Max Jakobson)

When the Arab-Israeli war flared last October 6, many people instinctively asked, What is the United Nations doing about it? Hardly anyone expected a reassuring answer: The question was asked in despair or in scorn. Like an atheist's prayer, it expressed a deep-seated longing for some higher international authority that would stop other nations from disturbing our peace—a deity we know does not exist.

The answer to the question was, of course, that the United Nations was quite obviously doing nothing at all. The Security Council took more than two days from the outbreak of fighting to arrange a meeting. When it did meet, on October 8, its members staged a pointless and largely irrelevant debate. Four days later the speeches petered out, but the fighting in the Middle East grew fiercer. In the meantime the real search for peace went on elsewhere. The cease-fire agreement was made in Moscow, not in the Security Council. The warring parties were brought to the conference table by Henry Kissinger, while the United Nations mediator, Gunnar Jarring, remained unemployed. The United Nations stock declined to a point at which Secretary-General Kurt Waldheim himself felt the need to express "profound concern" about the role of the United Nations. Failure to act for the maintenance of peace, he said on October 11, night "jeopardize the central point of the organization's existence."

Yet even the superpowers found that they could not do entirely without the United Nations. The cease-fire agreement negotiated between the United States and the Soviet Union was legitimized by the Security Council. Supervision on the ground was provided by the United Nations. The sight of the blue berets along the banks of the Suez Canal revived faith among the believers: The United Nations was needed after all. On the political level, too, the superpowers were finally persuaded by the other members of the Security Council to accept a United Nations role. Waldheim was allowed to preside over the formal opening session of the Geneva peace conference, and Maj. Gen. Ensio Sillasvuo, the Finnish commander of the United Nations Emergency Force (UNEF), was assigned the chairmanship of the military working group.

The events of recent months have, in fact, had a profound impact on the organization. The latest phase of the Middle East conflict has revealed the extent to which détente shapes the course of events. This, in turn, has led to a reassessment of the function of the United Nations in international politics and a redefinition of the role of the secretary-general.

The office of secretary-general has been clouded in ambiguity since its inception. The charter offers no clear guidance, for the founding fathers of the United Nations were deeply divided over this issue and failed to resolve their differences. The Soviet Union wished to place the secretary-general firmly under the control of the Security Council by proposing that each of the Big Five in turn nominate one of their nationals to serve for two years at a time. Many of the smaller states, alarmed at the extent of the veto power the Big Five insisted on reserving for themselves, strove to give the secretary-general some degree of political independence. No real compromise was reached, but instead both concepts were written into the charter. As a result the chapter on the secretary-general turned out to be like a photograph with a double exposure. It describes him as the chief administrative officer whose task is to carry out decisions adopted by the competent organs of the organization: a manager, not a policy maker. But it also grants him the right to take political initiatives by virtue of Article 99, which empowers him to draw the attention of the Security Council to situations likely to endanger international peace and security.

The conflict over the role of the secretary-general has come to be associated with Dag Hammarskjöld. But it did not begin with him: He was supposed to put an end to it. Trygve Lie's political pretensions had annoyed the big powers; they wanted a faceless bureaucrat to administer the organization; Hammarskjöld seemed perfect for the part. He himself had no preconceived idea of the role of the secretary-general, and for a while he did concentrate on his administrative duties. But the affair of the American airmen captured in Communist China gave him a first taste of independent political action, and the Suez crisis propelled him into the center of the world stage. On the occasion of his election to a second term in 1957, Hammarskjöld was ready to put forward the view that it was "in keeping with the philosophy of the charter that the secretary-general should be expected to act also without . . . guidance [found in the charter or in the decisions of the main organs of the United Nations], should this appear to him necessary in order to help in filling any vacuum that may appear in the systems which the charter and traditional diplomacy provide for the safeguarding of peace and security."

This revolutionary concept went unchallenged at the time. Governments seldom engage in debate on a philosophical plane: They react to events, not ideas. Besides, Hammarskjöld's baroque prose style may have helped to obscure his meaning.

What he did mean became apparent through his actions. The cold war created a continuous vacuum at the heart of the international community, and time and again Hammarskjöld succeeded in filling it, employing for the purpose a number of new diplomatic methods and devices, such as the United Nations Emergency Force in the Suez, observers in Lebanon, or a "presence" in Laos. For a few exciting years the United Nations became an autonomous influence in international politics, an influence not based on power but representing, in Hammarskjöld's words, "the detached element in international life." He saw himself as the ombudsman of the small nations, entitled to "voice the wishes of the peoples against this or that government," and guardian of the new states emerging from colonial rule, with the mission of keeping them out of the cold war—that is, independent of the big powers.

Hammarskjöld's last years at the United Nations can now be seen as an effort to transform it from an organ of cooperation among sovereign states into an instrument of the collective responsibility of the membership: a heroic effort doomed to failure. He was well aware of the political risks. In the midst of the Suez crisis in 1956 he wrote to a friend: ". . . no one in my job can run this properly, short of a miracle, without breaking his neck politically." And during the Congo crisis in 1961: "I have had to choose between the risk that the organization would break down and die out of inertia and inability and the risk that it might break up and die because I overstretched its possibilities. . . ."

In the end the challenge to the sovereign rights of the big powers posed by Hammarskjöld's dynamic concept of his function did bring the organization to the brink of disintegration.

U THANT, on his appointment as secretary-general in 1961, was left with a mixed and contradictory inheritance. The refusal of the Soviet Union and France to pay for peacekeeping operations they regarded as illegal jeopardized not only the solvency but even the constitutional foundations of the United Nations. The first duty of the new secretary-general was to keep the organization from falling apart. But he was also heir to the ideology of a politically independent and active secretary-general: an ideology strongly entrenched in Western countries and supported, though more vaguely, by a large part of the Third World.

It is Article 99 of the charter that gives the secretary-general explicit political responsibility in his own right. But Article 99 has been specifically invoked only once, in 1960, when Hammarskjöld used it to call the Security Council into session over the Congo. Of greater practical significance for the day-to-day conduct of the secretary-general was Hammarskjöld's legacy in the field of peacekeeping operations. There he had staked out an area of independent action by keeping operational control of United Nations peacekeeping forces firmly in his own hands. In Hammarskjöld's time the secretary-general would receive from a competent organ of the United Nations a general mandate for mounting an operation. He would then negotiate the necessary agreements with the states involved, determine the composition of the United Nations force, appoint its commander, and issue political instructions for the conduct of the operation. U Thant, by and large, maintained this practice, in spite of continued opposition from the Soviet Union and France.

Originally, the great debate on peacekeeping was concerned less with the role of the secretary-general than with the relative competence of the Security Council and the General Assembly. The Soviet Union, representing a strict constructionist view of the charter, has always insisted that only the Security Council is entitled to decide on the use of United Nations armed forces.

Actually, of course, the charter makes no mention of peacekeeping operations as we today understand the term—that is, the use of police or supervision forces or observers with the consent of the states involved as a means of containing conflicts and thus facilitating a peaceful settlement of disputes. The charter speaks only of the use of armed forces to enforce peace by suppressing an act or threat of aggression. However, in practice the Soviet Union has never objected to peacekeeping in the modern sense; it has objected only to peacekeeping operations carried on outside the reach of the veto.

The United States, however, used to defend the right of the General Assembly to initiate peacekeeping operations in situations in which the council is paralyzed by the use of the veto. But this was at the time when the United States could count on an automatic majority in the assembly. As the balance of voting power shifted, the United States became less and less interested in what was called the assembly's residual competence," until in 1965 it abandoned its attempt to force the Soviet Union and France to pay their share of past peacekeeping operations. This was the beginning of an American-Soviet détente in the United Nations context.

But the differences over the secretary-general's role in peacekeeping persisted. The Soviet position was shaped by the experience of the Congo operation, which, in the Soviet view, showed that a force set up by the Security Council could nonetheless be used by the secretary-general in a manner inconsistent with the council's intentions. For this reason, it was argued, the council had to retain strict control of a peacekeeping force during its entire operation. The United States continued to defend the practice of operational control by the secretary-general, on the grounds of efficiency and practicality.

The fact, remained, however, that the practice established by Hammarskjöld and continued by U Thant was designed at every stage to exclude the Soviet Union and its allies from participation in, or even direct insight into, the conduct of peacekeeping operations. The chain of command bypassed the Soviet citizens in the United Nations Secretariat, and in the field no personnel of allies of the Soviet Union were ever used. Soviet officials, it was reasoned, could not be trusted to act impartially. Peacekeeping was strictly a Western affair. This, more than any doctrinal considerations, was at the back of Soviet suspicion that operational control in the hands of the secretary-general was in fact a subtle way of getting around the veto.

Paradoxically, the most dramatic show of independence on the part of a secretary-general has not been any action taken to circumvent the Soviet veto, but rather U Thant's decision in May 1967 to withdraw the United Nations Emergency Force from the Sinai. This time criticism of his acting on his own without referring the matter to the Security Council came from the Western side: Was not this an obvious case for invoking Article 99 in order to draw the attention of the Security Council to a "situation likely to endanger international peace and security"?

U Thant himself and his principal adviser, the late Ralph Bunche, explained time and again that they had no choice but to agree to the Egyptian request for the withdrawal of the force. The presence of the force on Egyptian territory was based on Egyptian

consent; it could not stay there against the will of a sovereign state. As for referring the matter to the Security Council, that would have been an act of cowardice, simply passing the buck: It was obvious in advance that the council was hopelessly divided on the Middle East issue. "Nothing could be more divisive and useless," U Thant said, "than for the secretary-general to bring a situation publicly to the Security Council where there is no practical possibility of the council agreeing on effective or useful action."

Presumably U Thant also considered what effect invoking Article 99 might have had on his own position. The Security Council was in the midst of a debate on the situation in the Middle East. Western representatives, prompted by Israeli concern about military moves on the Arab side, urged the council to take steps to prevent war, while Soviet and Arab spokesmen dismissed such warnings as alarmist talk. Invoking Article 99 on the grounds that the Egyptian request for the withdrawal of UNEF was creating a situation likely to endanger peace would have injected the secretary-general into an acute controversy between East and West. No doubt he would have been accused of partisanship; he could even have risked sharing the fate of his two predecessors—that is, losing the confidence of the Soviet Union.

To take such a risk was not in keeping with U Thant's philosophy as secretary-general. He liked to call himself "moderator," a term once used by President Roosevelt to indicate the function of the chief officer of the United Nations. "I know of no better single word to describe my own idea of the office," U Thant has said. "I have always felt that the most important political duty of the secretary-general was to concentrate on the harmonizing functions of the United Nations. . . . I have been at pains to understand, and to remain on cooperative terms with, all the governments. . . ."

Unlike Trygve Lie and Dag Hammarskjöld, U Thant did succeed in remaining on cooperative terms with all governments. But the events of May and June 1967 nevertheless had other consequences for the future role of the secretary-general. The abrupt withdrawal of UNEF could not fail to impair the credibility of United Nations peacekeeping arrangements. In Israel the tendency to go it alone gained strength; elsewhere it was recognized that future peacekeeping operations would have to be anchored in something more secure than the discretion of the secretary-general. And the credibility of Article 99 of the charter was not only impaired: It suffered a fatal blow. Having failed to invoke it on the eve of the Six-Day War, U Thant was not likely to find another occasion even more dangerous to peace.

Later he claimed that the responsibilities of the secretary-general under Article 99 could be fulfilled in many different ways: Quiet diplomacy, he suggested, could be more effective than the specific invocation of Article 99. He used the method of quiet diplomacy in the summer of 1971 to warn the members of the Security Council in a confidential memorandum of the impending conflict between India and Pakistan. But governments are seldom moved by private advice or exhortation. The original intent of Article 99 was to give the secretary-general the possibility of confronting member states with world public opinion—the only force he could mobilize. But in this sense, Article 99 now seems to have become atrophied.

The American-Soviet dispute over the secretary-general's role in peacekeeping operations survived U Thant's term of office. The Soviet Union continued to insist that "having authorized a United Nations peacekeeping operation, the Security Council shall continue to exercise supreme control with regard to all aspects of the establishment of this operation and the direction of it throughout the entire operation." The United States, however, wished to grant the secretary-general "sufficient discretion to assure managerial effectiveness," which in practice meant that his decisions about such questions as the composition of the United Nations force and choice of commander would not be subject to the veto. On this issue, negotiations on guidelines for peacekeeping operations remained stalled when the General Assembly met for its regular session in September 1973.

The first hint of a change came in Henry Kissinger's speech before the assembly on September 24, his first public appearance as secretary of state. After referring to the "fruitless debate" on the issue, Kissinger said:

"The time has come to agree on peacekeeping guidelines so that this organization can act swiftly, confidently and effectively in future crises. To break the deadlock, the United States is prepared to consider how the Security Council can play a more central role in the conduct of peacekeeping operations."

The aftermath of the Yom Kippur war provided the first test of Kissinger's statement. On October 25 the Security Council decided to set up a United Nations Emergency Force "under its authority." The practical implications of this phrase became quickly apparent. Each step taken by the secretary-general to carry out the council's decision was submitted to the council itself for approval. The appointment of Major General Siilasvuo as force commander was explicitly endorsed, and so was the composition of the force. For the first time in history a member of the Warsaw Pact, Poland, was included among the nations whose troops take part in the United Nations operation. Detailed reports on the operations of the force have been distributed to council members on a daily basis. The authority of the Security Council is indeed supreme. This may detract from "managerial effectiveness." But it adds an indispensable element of political reliability: The new United Nations force obviously cannot be withdrawn without the decision of the Security Council.

The method used in the establishment of the United Nations force has not yet been translated into a formal agreement on principles and procedures to be followed in future cases. It is merely an ad hoc arrangement. The same is true of the decision to finance the operation through the regular budget. But the precedent now set is in effect binding for the future—unless, of course, the world is again plunged into a new cold war, which inevitably would paralyze the central organs of the United Nations.

All this means a change in the role of the secretary-general. To those who saw in Hammarskjöld's virtuoso performance a promise of an emerging international authority, it may seem like a setback. "Working at the edge of the development of human society is to work on the brink of the unknown," Hammarskjöld once said. He was an explorer who set out to find a new world and never reached his goal. Now his ghost has finally been exorcised. His successors backed away from the dangerous edge into the safer regions of established international cooperation. The present-day role of the secretary-general is less heroic, but it is more in keeping with the realities of prevailing power. The continued dispute over his functions in peacekeeping operations maintained a state of permanent tension between the secretary-general and two of the permanent members of the Security Council and lessened the usefulness of the United Nations as an instrument for peace. Now that this dispute is fading away, the services of the United Nations can be more effectively employed.

What happened at the United Nations last autumn was in fact an inevitable consequence of the improvement in the relations between the Soviet Union and the United States. American support for a more independent secretary-general goes back to the battles of the cold war. It was used as a counterweight to the Soviet veto. With the development of an American-Soviet détente, such a posture became obsolete and illogical. The Kissinger vision of a structure of world peace based on a balance between the great powers obviously does not include an autonomous role for the United Nations. But the United Nations does have some role even within the framework of the present détente. The Brezhnev-Nixon agreement of cooperation for the prevention of conflicts could not be effectively carried out without the services of an international peacekeeping agency. The need for a United Nations force in the Middle East proves the point. It follows that the two powers must agree on the methods and procedures to be followed in using those services.

The change in U.S. policy reflected in Kissinger's speech in the General Assembly can also be seen as a move toward the original concept of the United Nations. President Roosevelt spoke of the "Five Policemen" who, acting through the United Nations, were charged with the responsibility of keeping law and order in the world. But today one of the five, China, has disassociated itself from the Middle East operation: a note of uncertainty for the future. And the remaining two, Britain and France, also show uneasiness in the face of the concentration of power into the hands of the two superpowers. Significantly, it was the lesser members of the Security Council who insisted on giving the secretary-general a kind of watching brief at the Geneva peace talks. There is, after all, a deeply felt need for precisely that "detached element" in world affairs that Hammarskjöld tried, at times successfully to inject into the international political process. And this need will surely grow.

IMMUNITY AND AMNESTY

Mr. TAFT. Mr. President, the issues of earned immunity and amnesty have recently received substantial attention in the media. I am hopeful that the public will carefully consider the points raised in many of these analyses, particularly with respect to the merits of an alternative service proposal, S. 2832, I have advanced with Senator PELL. Only by a rational and thoughtful approach to this issue will a constructive congressional solution be possible.

Examples of three recent editorials on this topic include: "A Qualified Amnesty Plan Can Ease War's Wound" from the Detroit Free Press, March 14, 1974; "Taft's 'Qualified Amnesty' Is in the National Interest" from the Philadelphia Inquirer, March 15, 1974, and "Senator Taft on Amnesty" from the Philadelphia Evening Bulletin, March 18, 1974.

I ask unanimous consent that they be printed in the RECORD.

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

A QUALIFIED AMNESTY PLAN CAN EASE WAR'S WOUNDS

The problem of what kind of amnesty, if any, to offer America's young men who fled the country or went into hiding to avoid service in the Vietnam war was put off by mutual consent until the war's end. Now, however, the issue is once again joined in Congress.

Deserters and draft dodgers have been with us before, in the wake of other wars—but never to such an extent as this time around, when those who chose to evade military service on grounds of conscience are regarded by many as heroes in an oblique campaign against an unpopular and unjust war.

So there are demands for complete forgiveness by church groups, the anti-war movements of past years and parents who want their sons to come home or out of hiding.

The idea has great emotional appeal. It was indeed a questionable war. Yet the sacrifices made in Vietnam were so grievous that the nation is not likely to offer those who skipped them a place in society without asking of them some sort of amends.

From 1961 until war's end a total of 45,937 Americans died as a result of battle action. Many of them were no more enthusiastic about the war's objectives than those who avoided combat.

Then there were the 3,600 imprisoned for up to five years for violating Selective Service regulations, a large number of them deliberately.

The number of voluntary exiles is difficult to arrive at. Government figures indicate 7,000 to 10,000 are living in Canada, but the exiles themselves believe they number 40,000.

In addition there are about 29,300 deserters, most of them underground in the United States, with about 2,500 in foreign countries.

In the past the problem of the deserters has been split off from the conscience cases. They have been dealt with by military law, and none too gently.

This time, there are so many that such a stringent handling will be difficult to apply. And there is a strong argument that handling the deserters and the moral fugitives differently would discriminate against the under-educated.

The evaders included a large number of thoughtful, educated young men who figured out beforehand their reasons for not taking the oath to serve.

The deserters included a large number of young men of unsophisticated philosophies who signed up without much thought of what kind of a war it was but were troubled later by such things as burning villages in free-fire zones.

In more orderly times the evaders would be dealt with by civil law and the deserters by military. Congress will have to decide if the two groups should be handled separately, or as part of the same problem.

The nation has a precedent in President Truman's committee to deal with 15,000 convicted of draft evasion in World War II. About one in 10 was found deserving of presidential pardon.

A similar case-by-case procedure was proposed by Sen. Robert Taft Jr. in 1971, with the proviso that draft evaders would be able to leave prison or return from exile if they agreed to serve up to three years in the armed forces or in civilian service programs, such as VISTA, a kind of domestic peace corps.

There are a half a dozen other bills in Congress also, ranging from variations of the Taft proposal to outright amnesty. Their backers are wrestling with the difference between amnesty, which is a forgetting, and forgiveness which is an admission and the evaders were wronged.

A number of exiles probably will not settle for either, convinced in the first place that their resistance should not be forgotten and in the second that they have done nothing that requires forgiveness.

But after so many young men have gone routes that either cost them their lives or years in prison, neither complete forgetting nor complete forgiving will do.

Qualified amnesty, requiring some form of compensatory service, must be offered, however. Sen. Taft spoke the first word on this and it still holds:

"Neither out of remorse or sympathy . . . it would be simply a practical solution to a national concern."

TAFT'S "QUALIFIED AMNESTY" IS IN THE NATIONAL INTEREST

The war in Vietnam is over, at least so far as America's fighting forces are concerned. The question of what to do about the Americans who refused to fight, however, is not resolved. It is as steeped in passions as the war itself, and we doubt that anyone can find absolute answers to satisfy everyone.

Still, with as many as 70,000 young men in exile or fugitive status, answers must be found, and it seems to us that Sen. Robert Taft Jr. has the right approach.

Sen. Taft, son of the late "Mr. Republican" of Ohio, is author of the first amnesty proposal to be introduced in Congress, back in December, 1971. As the lead-off witness at House subcommittee hearings on the subject, the Ohio Republican outlined his legislation.

The senator takes a position between the extremes. He does not think that draft evaders and deserters should be brought home, or out of hiding, as unconquering heroes. Neither, though, does he agree with the implacable position staked out by President Nixon more than a year ago—that "those who deserted must pay the price" and "the price is a criminal penalty for disobeying the laws of the United States."

Sen. Taft recognizes that circumstances alter cases—that there is, for example, a difference between the man who deserted his unit under fire and the man who, out of idealism, refused to fight in what he considered to be an unjust war.

Thus, the senator would grant not "blanket" but "conditional" amnesty. He would create an immunity board to review applications on a case-by-case basis. And he would require that young men earn their immunity from prosecution by agreeing to two years' "alternative service" or service in the armed forces.

"I believe," Sen. Taft has declared, "that the qualified amnesty offered would be neither out of remorse nor out of sympathy for these men, but rather in national interest, a practical solution to what should be a great national concern. A solution that, hopefully, would do something to unite those men with their native land."

And it is a solution, as he also points out, in accord with an American tradition of granting amnesty, complete or qualified, that began with President Washington and continued through Presidents Adams, Jefferson, Madison, Jackson, Lincoln, Andrew Johnson, Grant, Coolidge and Truman.

Sen. Taft's approach, in short, is that justice must be served—justice to the nation as well as justice to the individuals. Obviously, whatever the penalty paid by the men who opted out, it cannot be as heavy as that paid by the 55,000 young Americans who went to Vietnam and never returned, except in boxes.

Yet justice should be tempered by mercy. As Lincoln once said, "A government can properly have no motive of revenge, no purpose to punish merely for punishment's sake."

The war, we repeat, is over. The time has come to make peace among ourselves.

SENATOR TAFT ON AMNESTY

It seems too harsh to say that the United States will never give the antiwar youth who evaded the Vietnam draft an opportunity to return to their native land and their families or to pick up their lives again as Americans until they have paid a penalty as criminals.

It seems too soft to say that they shall be welcomed home with complete forgiveness and forgetfulness of the past when other young Americans, who perhaps did not want to fight in Vietnam either, nevertheless suffered and died there.

Testifying before a House Judiciary subcommittee hearing on the amnesty issue, Republican Senator Robert Taft Jr., advocates perhaps the most acceptable course.

He would set up a board to review on a case by case basis the applications of draft evaders who wished to earn immunity from prosecution by two years' service in the armed forces or up to two years of "alternative service, public or private, contributing to the national health, safety, or welfare." An estimated 30,000 draft evaders could return to this country or cease to be fugitives under this procedure.

Legislation that Mr. Taft has proposed in the Senate does not cover deserters. The cases of deserters is intertwined with the concept of military discipline. Deserters are subject to the military code of justice. Many deserters undoubtedly went "over the hill" for reasons that had nothing to do with scruples against the Vietnam War. Some who deserted combat units might well have cost their comrades in arms dearly. There may be inequities in military justice that should be explored, however, and deserters' cases should be scrutinized with this possibility in mind to distinguish circumstances.

Even the draft evaders left others to assume a military role they refused, and so a case by case review seems called for . But the alternate service proposal of Senator Taft and others—conditional amnesty—appears satisfactory as a general approach.

The draft evaders cannot return as "heroes." They cannot return without some amends. That would offend too gravely the feelings of Vietnam survivors and the families of those who died. It would offend against the concept of duty. Too broad amnesty legislation would make a future draft unworkable.

But neither should the United States be willing to see many of its sons banished forever on pain of criminal penalties as the result of a war which has already done so much violence to American institutions and the American spirit.

The process of healing must begin.

MOBILE HEALTH CARE CLINICS IN APPALACHIA

Mr. HUMPHREY. Mr. President, increasing interest is being expressed from various sectors of the Nation suffering from severe shortages in physicians and health care facilities, in legislation I introduced in March, S. 3106, the Child and Maternal Health Care and Extension Act. A key feature of this legislation is the authorization of grants to the States to establish mobile health care facilities in physician-shortage areas.

An excellent example of what could be accomplished under my legislation is

provided in the program of mobile health care services in Appalachia—specifically several counties in Tennessee—operated by Project Concern, an international nonprofit medical and dental assistance program, which also operates health care projects in the Navajo Nation, Vietnam, Ethiopia, Hong Kong, and Mexico. Founded by Dr. James W. Turpin, Project Concern is presently headquartered in San Diego, Calif.

Mr. President, I ask unanimous consent that the following items be printed in the RECORD: an article in the August 1973 issue of Reader's Digest, entitled "Doctors to the World at Large"; a brochure description, "Project Concern—Appalachia"; and two statements, entitled "Project Concern's Approach to Health Delivery Care in Appalachia," and "The Problem: National."

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

DOCTORS TO THE WORLD AT LARGE

(By William D. Ellis)

(Condensed from the Atlanta Journal and Constitution Magazine)

Driving down one Upper Cumberland mountain and starting up to next, Dr. James Turpin laid so much foot on the accelerator that the steel medical-record boxes slammed against the back of the van. Turpin was in a hurry—a phoned message from his Pine Haven "country clinic" reported that emphysema patient Datus Gunn was fighting harder than usual for breath. Now, spiraling around the mountain curves, the doctor listened as two nurses refreshed his memory from the medical cards of the other patients. There would be a couple dozen of them, waiting to be treated by the only doctor many of them had ever seen.

Dr. Turpin's medical and dental vans arrived here in eastern Tennessee in 1968, to serve an area of seven economically depressed counties. Pickett County's situation was typical: the entire medical establishment for 4400 people was one pharmacist and one public-health nurse. (The two nearest hospitals, too many miles and dollars away, had long waiting lists.) At the tiny settlement of Pine Haven, the emphysema sufferer is the first to enter the van. Next, a weathered, overweight woman with a painful back, then an 80-year-old with high blood pressure. After treatment, one patient says, "How much do I owe you, Doctor?" Turpin has found he has to charge a fee or people won't come. If they don't have the cash, they'll bring vegetables, wild game, knitwear. But no matter what the problem is, the fee is the same. "A dollar," he says.

"I'd like to make it two dollars," the man says in a frail voice. "It's good to find a doctor who's concerned about us."

Concern is exactly what Dr. Jim Turpin and his pert doctor wife, Mollie, had in mind from the start. As founders of the international medical-relief organization, Project Concern, they operate 22 thriving hospitals and clinics in some of the world's most medically desperate places. In Vietnam, Hong Kong, Mexico, Ethiopia and the United States, men and women of 27 nationalities have traded lucrative careers—temporarily or full time—for three squares a day and a bunk in a Project Concern medical compound or trailer.

As recently as 1961, Jim Turpin was a sports-car-driving doctor in Coronado, Calif. Life seemed a golden stairway. But a boyhood sense of mission gnawed at Jim. In the slums of nearby Tijuana, he found a small charity clinic, Casa de Todos, established and maintained by Señora Maria Meza, and he and Mollie contributed their services Thursday and weekends. Even that was not enough to cure the restlessness.

Then a patient, a Navy lieutenant just back from the Orient, told Jim about Hong Kong. Thousands of sick, homeless Chinese were streaming into the city, refugees from Red China. It meant hunger, sleeping in the streets, epidemic disease. That same evening, the San Diego *Evening Tribune* featured pictures of the refugees. And Jim continued to hear about the disastrous medical problems.

One night after dinner, he said, "Mollie, let's go to Hong Kong and help."

She looked at him. Plainly, he was serious.

The preparations took months, but the people of Southern California took the plan to their hearts, coming forward with medicine and money, legal and management expertise. An optometrist contributed a supply of used eyeglasses; the U.S. Navy offered transportation for some personnel. Local volunteers sorted, classified and packed tons of supplies for shipment.

On an advance exploratory trip to Hong Kong, Jim visited the notorious Walled City, where 10,000 people live in eight-by-ten-foot hovels with no running water, no sewers except the gutters. Surely a clinic was needed here. But Jim also had his eye on the harbor, where some 135,000 Chinese live on sampans and junks floatingso close together one can walk across their decks for great distances and never touch water. Supersitious about moving ashore, generations are born, live and die in this fantastic floating city, plagued by poverty, hunger and disease. Turpin launched a search for a boat that could be turned into a floating clinic.

At this point came an unexpected break: Jim Turpin was selected by the U.S. Jaycees as one of the "Ten Outstanding Young Men for 1962." Invited to speak to Jaycee groups in the United States, Australia and New Zealand, he told them about the Hong Kong clinic. Over 300 people volunteered to serve different lengths of time in various Project Concern jobs. Another quick benefit was cash—contributions enough to buy the floating clinic that Jim had envisioned. On the afternoon of March 19, 1963, moored amid acres of junks and sampans, the *Yauh Oi* (Brotherly Love) opened shop, and patients timorously started trickling aboard. Soon the sick load was nearing 200 per day.

A time came when the Hong Kong project was operating effectively, and growing, by itself. Then Jim paid his first visit to South Vietnam. In Tuyen Duc Province in the Central Highlands he saw Montagnard Kohos living in the 15th century. The diseases were the same as those plaguing the Walled City—acute malnutrition, respiratory problems, skin lesions, parasites—but here they were being treated by witch-doctor incantations and animal sacrifices. Turpin located an abandoned Green Beret camp at Da Mpao and returned to Hong Kong to get supplies and staff.

Back at Da Mpao one thing became immediately clear: these mountain people lived in tiny isolated villages, and many who needed help would not venture out to find the clinic. To make a real dent in the medical need, Project Concern must spread to them.

Out of this situation came a concept which has become a Project Concern trademark. From each village within jeep range the staff began to recruit one bright young man or woman. After training, each Village Medical Assistant (VMA) returned to his or her village to teach hygiene and treat common illnesses, backed up by the Project Concern medical team which came periodically and held clinic for the most serious cases.

As Vietcong activity increased in the area, Jim sent Mollie and their four children back to the United States. There Mollie enrolled in medical school. (She graduated in 1970, and is now practicing as a full-time Project Concern doctor.)

Jim, meanwhile, was trying to expand his operations to villages even beyond the secure area. The Army heard about his efforts, and one afternoon, kicking up a tornado of dust, a military helicopter landed on the Da Mpao field. "Doc," said Lt. Jim Wilkie, "I hear you need transportation. Where to?"

Thus the village-clinic sessions spread. And as the VMAs and the Vietnamese government took over the Da Mpao operation, Jim suddenly found himself thinking about the Casa de Todos clinic in Tijuana and a promise he had made to Maria Meza that one day he would come back and bring the Casa into Project Concern.

Thus it happened that in June of 1967, Jim Turpin walked into Casa de Todos and said, "Maria, it's time now." Señora Meza burst into tears.

Dr. Jim and his corps of veterans brought to Casa de Todos all the know-how and reputation acquired by Project Concern's experience in Hong Kong and Vietnam. Señora Meza suddenly found herself in the midst of California medical-school volunteers and high-powered Mexican and U.S. businessmen working on the planning and building of her dream—a 54-bed children's hospital.

Today, while the Turpins concentrate their personal efforts in Tennessee, Project Concern continues to open clinics in other medically desperate areas. To serve the Navajos, a clinic was opened in Bisti, N.M., in 1971. The project was recently extended to Ethiopia, and a clinic in Bali is being established in October. The Turpins and their colleagues are constantly torn between wanting to help all the sick in the world and fear of overextension.

What makes Project Concern such a success in so many diverse cultures? Jim's answer: selflessness. "We are the kind of people who need patients just as much as they need us," he says. "And that changes the whole approach to our patients. We don't come in flapping big white wings to have humanity. Heck, we're saving ourselves."

Driving the medical van around the mountain curves of Tennessee, Jim adds, "*Very* important in what we do is the one-to-one relationship."

Then he grins and, as a five-word summary of Project Concern's philosophy, quotes something he once heard Maria Meza say to a child in the Casa de Todos clinic: "Love you? . . . I *am* you."

PROJECT CONCERN APPALACHIA: ONE DENTAL AND ONE MEDICAL VAN TAKE HEALTH CARE TO THE NEEDY

THE CHILDREN OF POVERTY ARE CALLING YOUR NAME

Whether in the Highlands of Vietnam, or the Highlands of Appalachia, the facts of economic disadvantage are related strongly to malnutrition, area economic depression, and the scarcity of medical facilities, if, indeed, they exist at all. Not only are the poor more liable to physical disorders, they suffer psychological disabilities. The haunting fact remains that it is very hard to pull yourself up by the bootstraps if you are physically or emotionally debilitated by malnutrition and lack of health care.

"She was twelve years old and she said to me, 'I thought teeth was allus s'posed to hurt.'"—Jeanne Gehan, Project Concern Appalachia.

The lack of human ecology goes hand in claw with the lack of natural ecology. Appa-

lachia, once rich in natural resources, in coal, timber, copper, zinc—has been brutally exploited. Magnificent stands of timber were cut off, and the lumber companies moved on, leaving behind devastated acres and devastated men crippled in timbering accidents. Men no longer able to work, if work were to be had. When the deep coal mines ceased to be productive economically the industry turned to automated strip-mining which has shorn away mountain tops, turned rivers red, and left thousands of miners, who know no other skill, unemployed.

These men—and their families—are tied to their small cabins hidden in remote hollows. They are tied by bonds of ill health, of poor education, of economic levels well below the national poverty level. Here they are doomed to remain unless those bonds can be broken.

In Appalachia, Project Concern has brought its expertise, and is now providing medical, dental and nutritional assistance, in an area which lacked these essential services.

Pickett County, site of Project Concern's first medical/dental Appalachian clinic, was third from the bottom in terms of per capita income in Tennessee, but now, among 93 counties, is among the top three in terms of health improvement, according to a survey done by the State government.

Now in its sixth year, and headquartered in Clarkrange, Tennessee, the Project Concern program is striving for that same effect in the seven counties it is presently serving with its mobile dental and medical vans . . . but the real job lies ahead . . . that of bringing improved economic conditions to the area. To do this for themselves the people must at least be physically healthy.

Project Concern's programs, both domestic and foreign, are small when compared to the size of the problem. This growing movement, however, is bringing care . . . and hope for the future . . . to many small corners of the world.

We have lit candles against the darkness with the help of many, many dedicated people. We can keep them lit, and even light more, if YOU care . . . care enough to become "Involved in Mankind".

PROJECT CONCERN'S APPROACH TO HEALTH DELIVERY CARE IN APPALACHIA

An essential element in establishing a program and ensuring its future success is to provide the community with a convincing demonstration of improved health services in action. This impact is necessary to overcome the skepticism of people who have resigned themselves to poor health as a way of life, after doubting that change can be effected, and to overcome the superstition, ignorance and fear prevailing in backwoods areas, and to change ingrained habits handed down from generation to generation.

In the international programs of Project Concern in Ethiopia, Hong Kong, Viet Nam, and Mexico, this impact has been most dynamic and forceful in the varying cultures of the countries, and has been accomplished despite difficult language barriers.

With this experience which increases with success of various programs in those countries, it has been relatively simple to transfer the skills, experience and expertise of those specialists who have served overseas to be brought to bear on the health problems of indigents of the Appalachia area.

The delivery system which has been established has some unique features, is innovative and attractive, and contains elements which would have applicability in other parts of the country. Its essential feature is the ability to deliver those health services while gaining the full and complete confidence of the patients, a long neglected segment of the population.

I. GENERAL OBJECTIVES

The Project Concern medical staff serves the people of Overton, Fentress, Morgan and Cumberland Counties, who have for many years lacked proper medical attention due to the scarcity of facilities and personnel in the area.

Therefore, the objective of the Project Concern medical program is to attempt to fill the void in medical care which is due to a lack of personnel in the area. The program hopes to provide medical treatment and preventive medical education for the children, adolescents and adults of the groups of people considered to be below the poverty line. Family income and size are taken into consideration in determining whether or not a family is below the poverty line.

The Project Concern medical program operates four clinics in different areas from Monday through Thursday. Two of the clinics are located in mobile home/offices, one of which was donated by the Priest Lake Jaycees from Nashville, Tennessee. One clinic operates in buildings that are donated by the local community. The fourth clinic is still served by a mobile medical van, but the community there is currently renovating the community center to be used as the clinic. Soon the van will be retired for use as an additional dental van.

The medical staff consists of one physician, two registered nurses, a registrar, a pharmacy technician, and many volunteer physicians, lab technicians, and medical students. On Fridays the physician does surgery in a local hospital, the nurses conduct preventive medical education clinics, and the remainder of the staff works in the warehouse.

The objective of the preventive medicine clinics is to acquaint the patients with early signs of illness and to encourage them to seek treatment before the problem becomes an emergency. Many patients can be instructed on how to manage problems such as diabetes and hypertension without the continued need for a doctor. For a period of time, one nurse was conducting well baby clinics at each of the clinic locations. However, lack of attendance has caused this project to be discontinued. Instead, she is now working with the local county health departments to set up prenatal/well baby clinics.

II. GOALS

The goal of the Project Concern medical program is to develop a medical care and education delivery system in an area with a shortage of medical personnel. It is hoped that in the future the medical needs of the communities served will be met by either existing or new facilities and Project Concern can look to other areas of the state where they can be of service.

A medical care system is being realized by use of the four medical clinics. Many patients who either had no transportation or were too poor to afford medical treatment before have now been diagnosed and are receiving continuous treatment from the Project Concern medical staff. They feel they have a family physician on whom they can rely in case of emergency and, if they must be hospitalized, they are sure somebody will be there to take care of them.

A medical education delivery system is slowly being realized through the use of the Friday educational clinics. The nurses have met with prospective and new mothers to teach them how to care for their babies properly and to prevent illness in their children as much as possible. Family planning is encouraged, especially in those families with many children, and many women have learned how to prevent having unwanted children.

Achieving complete preventive medicine in the areas served is a long way off, although certain areas have been improved. Of course, it takes time to change the habit structures of people who had previously not sought medical treatment until an emergency arose. Physicals on a yearly basis, pap smears, and tuberculin tests were not heard of, although attitudes revolving around these subjects are slowly changing.

In general, there has been an improvement in the health of many people being served by Project Concern. However, optimum medical care is something to look forward to.

THE PROBLEM: NATIONAL

Vernon E. Wilson, M.D., stated at the 24th National Conference on Rural Health in Atlanta last year that "rural health is a problem of two basic dimensions: financial and geographic location . . . rural areas are characterized by below average incomes and considerable poverty; the greatest majority of the poorest counties in the United States are rural . . . the term rural generally means a cluster of factors that are adverse to adequate health services. Along with population densities that range from low to sparse, rural areas usually have a limited tax base, scarce and widely disbursed health facilities, extreme shortages of health manpower, and negative attraction for new manpower."

Fifty-four million Americans live in rural areas, and most of them face acute problems in obtaining health care services. The rural crisis stems in large part from the rapid urbanization of the country over the past two decades—a development that has created a very severe maldistribution of economic and medical resources. Developments and medical technology in increased specialization have further compounded the problem. In fact, compared to the urban and suburban portion of the nation, rural people in sparsely populated areas have only half as many physicians.

The health problems of people in rural areas are further complicated by the following special conditions:

1. Rural populations have a greater percentage of very old people, a group that has higher health needs than working age people;

2. Rural people have over 50% more chronic activity—limiting conditions—than do urban populations;

3. Rural people are more subject to accidents than their urban counterparts;

4. Rural populations generally have lower levels of family income and education;

5. Ethnic and cultural customs and traditions have erected economic and health barriers for Indian and migrant citizens.

Rural Americans account for 25% of America's total population, but 40% of America's poor live in rural areas. As is well-known, low levels of income and education are both related to increased individual health care needs and decreased ability to obtain care. Many rural people are caught up in a vicious cycle: Poverty contributes to their ill health and their ill health contributes to their poverty. This grave national problem has been growing much more acute each year, and has prompted some experts to predict "catastrophic eventualities" in health care unless systems are soon developed that will contribute to significant improvements.

FRANK McGEE: A JOURNALIST OF GREAT STATURE

Mr. JAVITS. Mr. President, a courageous and gifted reporter is gone. The

fourth estate and the Nation are poorer without Frank McGee.

Mr. McGee practiced a keen and incisive journalism which gained the respect of all who saw his work. His professionalism was marked with a quiet understatement. He respected his audience to judge the facts objectively—and that's how he delivered them. This respect was returned to him by millions of viewers.

In the 1950's, television journalism was still in its formative stages. Frank McGee's thorough and thoughtful practice of the journalistic art did much literally to transform the intellectual impact of the television media.

He was a man of integrity, a reporter of great stature.

Mrs. Javits' and my heartfelt sympathy goes to his widow, his son and daughter, his mother and family upon this tragic loss.

I ask unanimous consent that the obituary of Frank McGee which was printed in the New York Times of April 18, 1974, be printed in the RECORD.

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

FRANK MCGEE OF NBC DEAD; NEWSMAN AND "TODAY" HOST, 52

(By Farnsworth Fowle)

Frank McGee, since 1957 one of the most respected newsmen of the National Broadcasting Company network, died yesterday morning in the Columbia-Presbyterian Medical Center. He was 52 years old and lived in Manhattan.

The immediate cause of death was pneumonia, but his physician, Dr. Frank Southworth, disclosed that Mr. McGee had known for four years that he had multiple myeloma, a cancer of the bone marrow, for which he was under treatment at the hospital.

"During the last few months he suffered severely from back pain due to his disease, but he insisted on carrying on with his program," Dr. Southworth said. "Finally, the combination of the disease and the treatment for it, which enabled him to continue working, overcame his immunity mechanism and he died rapidly of an overwhelming pneumonia."

Mr. McGee entered the hospital last Thursday after his regular appearance that morning on the "Today" show, on which he had been host since Oct. 12, 1971.

In the mid-nineteen-fifties, Mr. McGee was head of news at an N.B.C. affiliate in Montgomery, Ala., WSAF-TV, where his coverage of racial frictions won the attention of Julian Goodman, now the network's chairman and chief executive officer. After being hired for the network's Washington staff, Mr. McGee, on one of his first assignments was in Little Rock, Ark., where Federal troops were flown in to back the integration of Central High School in September, 1957.

CALM AND CLEAR REPORTER

A national audience soon recognized the qualities that remained Mr. McGee's hallmark—calmness in describing turbulent events, clarity in presentation and freedom from the temptation to pontificate on the one hand and to reach for witticisms on the other.

Soon he was covering presidential conventions and elections and space shots as well as everyday network assignments. In 1965 when he was anchorman for N.B.C. on the Gemini space flight that included Maj. Edward H. White 2d's space walk, Jack Gould, radio and television critic of The New York Times, praised Mr. McGee's "uncanny knack for flawless delivery under any and all circumstances." He had been anchorman on "Monitor," on the WNBC-TV "Sixth Hour News" in New York and, with John Chancellor and David Brinkley, on the "N.B.C. Evening News" which succeeded the "Huntley-Brinkley Report" in 1970.

Some of his most distinguished work was on documentary shows. His gift of quick mastery of the medium perhaps was best shown in the early sixties on suddenly scheduled shows, sponsored by the Gulf Oil Corporation, pegged to a news break.

"I love it," Mr. McGee told a Times broadcast reporter in 1961. "Often the things that we feel are important are very obscure and it's hard to develop interest in them. But in the case of a major news story . . . you get a chance to give them information about something when they are predisposed to absorb it."

He expressed at that time a firm belief in writing his own scripts because "you can ad lib your way far more smoothly, when it's necessary, than if you're bound to someone else's material and not familiar with it."

Mr. McGee's easy, softspoken delivery suggested his birth in Monroe, La., and schooling in Oklahoma, where his mother took him after her divorce and remarriage. After high school in Seminole and Norman, he entered the Army as an enlisted man in 1940.

After World War II, with G.I. Bill of Rights benefits, Mr. McGee studied at the University of Berkeley and did a variety of odd jobs on the side before transferring to the University of Oklahoma. While there he found employment at a small radio station, KGFF, in nearby Shawnee, where his assignments ran the gamut from advertising salesman to music librarian. In 1950 he joined WKY in Oklahoma City, where he was a newscaster until he went to Montgomery in 1955.

WON PEABODY AWARD

Mr. McGee won the 1966 Peabody Award for his running coverage of Pope Paul VI's visit to New York. In 1967, he received a Brotherhood Award from the National Conference of Christians and Jews for a one-hour documentary, "Same Mud, Same Blood," about the relations between black and white soldiers in the Vietnam conflict. He spent a month there with two camera teams collecting his material.

Among many tributes to Mr. McGee yesterday was one from Walter Cronkite of the N.B.C. rival, the Columbia Broadcast System, who observed: "Behind Frank's soft-spoken, almost courtly, manner one sensed character and integrity of iron."

Mr. McGee is survived by his widow, the former Nialta Sue Beaird, whom he married in 1941; a son, Michael; a daughter, Mrs. Peter Labovitz of Washington, Va.; his mother, Mrs. Floyd Wiverley of Eureka, Calif.; two sisters, Mrs. George Wilcox and Mrs. Joseph Bell, and two grandchildren.

Mrs. McGee announced last evening that the family had established a Frank McGee research fund at the College of Physicians and Surgeons of Columbia University.

There will be a memorial service at 1 P.M. tomorrow at Frank E. Campbell's, Madison Avenue at 81st Street.

NATIONAL LIBRARY WEEK

Mr. HATHAWAY. Mr. President, this week is National Library Week, a time to remind ourselves of the unique role played by America's libraries in the cultural, educational, and recreational life of this country. Libraries provide an intellectual focus for our community life, a source of wisdom and inspiration for our schoolchildren and a reservoir of knowledge for our colleges and universities.

Yet for the second year in a row we find that the administration is attempting to cut off Federal money for library programs. Last year they put no money at all in the budget for library programs but Congress put the money back in. This year, taking a different tack, they have budgeted a pittance for libraries, and now claim to be supporting "effective library services in our society."

According to the administration's recommendations, funds for public libraries would be nearly halved and money for school libraries would be eliminated in favor of consolidation which ends up leaving librarians holding an empty bag. A program to promote interlibrary cooperation is being touted about as a new invention, while in fact it is only an anemic substitute for existing programs authorized by the Congress but never adequately supported by the administration. And money for academic libraries, the most hard hit of all institutions in today's education climate, has been completely cut off.

Mr. President, it is the failure of the administration to budget any money at all for academic libraries which has me the most concerned. Without a good library, a college cannot survive. The whole theory of higher education is based on the premise that a student, properly inspired by a professor, can acquire knowledge on his own through reading and doing research. Without a strong library to provide him with the stuff of learning, the student is lost.

But this administration has decided that colleges no longer need assistance in building and keeping up these research collections, even though the newspapers are filled with stories about the desperate financial plight of all aspects of higher education. The administration says it is discontinuing title II-A of the Higher Education Act, which provides grants to colleges to purchase books and audio-visual materials for their libraries, because the $5,000 maximum grants are too small to help anyone. On the other hand, they claim too many big universities are soaking up the $5,000 grants.

If the $5,000 grant is too small to be of any use, why are so many institutions applying for it that last year the money had to be prorated because there were too many to each receive a full grant? In my own State of Maine, a total of $82,050 was divided between 17 colleges in fiscal year 1973. They thought it was worth applying for.

The fact is that the costs of higher education are so great, and climbing so fast, that colleges and universities are looking everywhere for money. According to a recent report by the college entrance examination board, the average parent sending his child to a private 4-year college will pay upwards of $4,000 next year. The cost of a college education, according to this study, has risen more than 35 percent in the last 4 years. And this is just the cost to the parent.

Inflation has eaten into endowments while jacking up the costs of services. The price of something as essential as a history book has nearly doubled in the last 5 years, jumping from an average of $8.73 in 1967 to $15.56 in 1973 according to publishing industry figures.

Yet the administration is saying that now is the time to cut back aid to our much-beleagured colleges, substituting a pittance in federally guaranteed student loans in the place of solid assistance to the institutions themselves. The administration's budget is currently being reviewed by the House and will soon come before the Senate. I would urge my colleagues to take a close look at the way this administration claims it supports college libraries and all libraries. Now is the time for Congress again to show that it believes in the necessity of good libraries and that it is willing to support them.

AID TO SOUTH VIETNAM

Mr. TAFT. Mr. President, recently there appeared in the Cincinnati Enquirer of April 14, an excellent article by Thomas Gephardt, on Southeast Asia. I ask that it be printed in the RECORD.

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

WHY THE FRESH DETERMINATION TO SEE SOUTH VIETNAM LOST?

(By Thomas Gephardt)

As the 1972 presidential campaign reached its climax, there were times when it seemed that Sen. George S. McGovern was campaigning less against Richard M. Nixon, President of the United States, than against Nguyen Van Thieu, president of South Vietnam. President Thieu had become, in McGovern's eyes and in the eyes of most of his supporters, not only the principal obstacle to peace in Southeast Asia, but also the embodiment of all that is wrong with today's troubled world.

Indeed, Senator McGovern predicted, at one point in the campaign, that if U.S. forces, which he viewed as the Thieu government's sole prop, should be withdrawn, President Thieu and his "cohorts" would flee the country within six months.

Nguyen Van Thieu thereby took his place in the liberals' hierarchy of demons—a hierarchy reserved for those who stand in the way of Communist dictatorships: Chiang Kai-shek, Fulgencio Batista, Syngman Rhee and even, for a time, Harry S Truman.

As matters have turned out, of course, U.S. forces *have* been withdrawn from South Vietnam for a year, and the Thieu government *has* survived. Indeed, astute observers like Dr. R. Eric Weise, associate professor of political science at the University of Cincinnati, have returned from South Vietnam with such diagnoses as this one, which Professor Weise offered in this space on March 16:

"In November, 1973, in dozens of conversations in Saigon, the support for President Thieu was firm. Thieu was viewed as a strong, stable, and personally honest leader. . . . The high level of approval of President Thieu's performance while in office is an amazing contradiction to most American critics who said Thieu wouldn't last six months after the withdrawal of U.S. troops. The evidence available today suggests that the Thieu government grows stronger with the passage of each month, and that the public support for the government follows the same upward curve."

Such circumstances as these may suggest why those who have had such a vital personal stake in the inglorious downfall of the Thieu government have now mounted so furious an assault on further military aid for South Vietnam. Having been proved wrong in what they purported to believe about President Thieu's durability, they now seek to leave the South Vietnamese government defenseless in the face of the continuing attacks of the North Vietnamese and the Viet Cong. Thus, they hope, their predictions may yet be redeemed.

The U.S. Ambassador to South Vietnam, Graham Martin, signified an awareness of what is afoot when he spoke, in a cablegram to the State Department last month, of "those whose objective is to aid Hanoi by seriously crippling the Republic of (South) Vietnam through a drastic reduction of economic and military aid." (Someone in the State Department evidently stole a copy of the ambassador's cable and sent it to Sen. Edward M. Kennedy, who read it on the Senate floor.)

What is at stake, in reality, is an effort by the Nixon administration to increase the ceiling on military aid to South Vietnam from the $1.126-million level ordered by Congress in 1973 to $1.6 billion—an increase of $474 million.

That, to be sure, is a lot of money in the layman's view. But it is a drop in the bucket compared with the $56 billion the United States has invested in military grants to friendly powers around the world in the post-World War II years, or, in particular, compared with the $130 billion the United States invested in its own military effort to establish South Vietnam's right to self-determination.

There is, nonetheless, a do-or-die effort under way to deny the South Vietnamese whatever they need to sustain their freedom.

In anticipation of that drive for South Vietnam's extinction, the American Security Council, a nonpartisan, nongovernmental organization concerned with the nation's security, dispatched a mission to South Vietnam to determine, if it could, the prospects for its survival.

The council enlisted, as mission members, John Moore Allison, former assistant secretary of state for Far Eastern affairs and former U.S. ambassador to Japan, Indonesia and Czechoslovakia; Rep. Philip M. Crane (R-Ill.) and a former history professor at Indiana and Bradley Universities; Dr. Anthony Kubek, research professor at the University of Dallas; Elbridge Durbrow, director of the Freedom Studies Center and former ambassador to South Vietnam, and Philip C. Clark, correspondent and commentator for the Mutual Broadcasting System.

The mission sought to delve into all the allegations that are periodically advanced against the Thieu government.

It took particular interest in the charge that President Thieu is keeping 202,000 "political prisoners" and found that South Vietnam's prison population was actually 43,717—no significant number of them incarcerated for political reasons.

It delved also into allegations that South Vietnam is a police state and concluded: "While President Thieu is reviled by enemies of his government as a corrupt dictator, he moves almost daily among the people with only a minimum of personal protection. The son of a humble fisherman from the central coast, he talks the language of the people and is accepted by them. Thieu scoffs at the notion he covets power, saying: 'If the people or the army would want me to go, I would go.' So far, there is no other leader in South Vietnam who comes anywhere close to Thieu in popularity—and that popularity appears to be solid, despite the severe economic hardships brought on by the U.S. withdrawal."

Perhaps it is the circumstance that there is no readily available substitute for President Thieu as a national leader that has made him a marked man for his critics in the United States. For the destruction of President Thieu, if the mission members' assessment is correct, would leave the South Vietnamese leaderless and adrift.

The missoin also brought back this message from President Thieu for the American people:

"The American people and Congress should realize that the Vietnamization task has been successful. You may report back to the United States that we have done everything we can here to survive on our own and to defend our freedom. The most important thing we need is guaranteed peace."

If peace is indeed guaranteed in South Vietnam, it will be because the South Vietnamese possess the military power—entrusted to them under the Vietnamization program—to resist crushing at Hanoi's hands.

Yet it is precisely that capacity that the opponents of U.S. aid to South Vietnam are determined to eliminate.

Hence, the mission's conclusion that "the struggle for South Vietnam ultimately may be decided not on the battlefield but by the false facts and wrong impressions given to Congress and the American public by anti-Vietnam propagandists."

The fact that the anti-Thieu campaign has continued beyond the extrication of U.S. forces from Vietnam raises some interesting questions about the nature of the dogged campaign against the U.S. role in Southeast Asia through the late 1960s and early 1970s.

While Americans were being shot at—and many of them were being killed—the antiwar movement's goals were rarely questioned, Vietnam *was* a long way from home, and U.S. objectives in Vietnam *did* seem, to some, unclear.

But now the Americans are home. Yet the antiwar movement is as zealous as ever to see even the remaining strings cut so that, apparently, South Vietnam may fall into the abyss.

When the history of the Vietnam War period is written, there will be many questions demanding answers. This one will be near the top of the list.

THE THREAT OF FAMINE

Mr. HUMPHREY. Mr. President, the New Republic of April 20, 1974, contains an editorial entitled "Death in Living Color." This seemingly macabre title refers to the potential for famine in the Third World nations—and the fact that Americans may be able to view this horror in their living rooms. When Lord Snow envisioned this possibility some years ago, the idea seemed somewhat remote and unreal. The title now seems more straightforward, and it may shock the United States out of its complacency and help it to deal with this immense problem.

World reserves of grain are the lowest in history. The high cost of fuels and fertilizers will negate much of the progress developing nations have achieved so far in improving their agricultural production. Robert McNamara, head of the World Bank, says that if aid is not increased to the developing nations, "there are going to be millions of people dying in the world."

The United States is about the only country that could take the lead in solving the dilemma. We are still a rich and prosperous nation, and our farm production is booming. James P. Grant, head of the Overseas Development Council, says Americans could lead a food crusade, eating less beef and thus conserving grain.

The problem has largely been ignored, with the administration's interest focused on increasing exports. But if the importance of the American role in ending the crisis is brought forward forcefully enough, we may not have to watch millions dying on television.

Mr. President, I ask unanimous consent that the New Republic editorial be printed in the RECORD.

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

[From the New Republic, Apr. 20, 1974]

DEATH IN LIVING COLOR

What with the wonders of electronic communication and the enterprise of our news media we should have a very good close-up next year of the world's greatest famine. Computers will be able to reckon up the score of those who perish from month to month and with even a mediocre television set it will be possible to bring into the living room the full drama of the big spectacular, and count the ribs of the dying children.

If the United States is going to do anything to avert the expected famine the time, of course, is now, but there seems very little interest. The situation is fairly clear. The world's reserves of grain are the lowest in history (the normal supply is two or three months, but it is now down to about 27 days—hardly enough to fill the pipelines). The other big factor is oil. The price of oil has tripled and the world fertilizer price has soared (oil is used to extract nitrate fertilizer from the air). Oil is needed to run all those chugging little pumps that keep the life-giving irrigation ditches flowing in places like India. (As a human interest item, Director-General A. H. Boerma of the Food and Agriculture Organization came back from India recently and told how peasants are waiting two or three days at fuel stations with their battered containers for five gallons of fuel to keep their pumps working. Americans can sympathize with them, for many of us have waited an hour or even longer to fill up our Fords and Chevvies. Of course with the peasant it's a matter of life and death.) India is the easiest country to talk about because it has 600 million people and is the biggest of the 40 nations whose populations total one billion which are the poorest of the poor, and comprise what the Overseas Development Council calls the "Fourth World" in its new paperback *Agenda For Action 1974* (Praeger; $3.95). At best of times India needs a foodgrain harvest of 108 to 110 million metric tons to prevent famine, but the latest US Department of Agriculture report (April) estimates the crop at 102 million tons.

Food riots and political turbulence have begun in parts of India and some aren't sure democracy will survive. It's worse elsewhere. You have probably been reading of starvation in parts of Africa and Asia, and the same conditions are apt to hit sections of Central America. The richer nations have been helping these non-oil producing developing countries for some time but unfortunately the increased cost of fuel and fertilizer will now more than wipe out what they have been receiving in grants. Oil alone will cost about $19 billion more. As for fertilizer a virtual embargo on exports is now in effect from the U.S. and Japan.

Father Hesburgh, president of Notre Dame University, heads the Overseas Development Council. Unless something is done quickly he predicts "a food crisis that will make the energy crisis look like a picnic." Other nations are ready to go, he says, but the United States is holding back. "We are about the only people in the world who are dragging our feet," he said here last week. "There will be a cataclysmic kind of revolution if we don't have the sense to act while there is still time, and there isn't very much." It will be a great show to watch on television.

World authorities are getting almost hysterical. Here is Robert McNamara, head of the World Bank, interviewed on *Meet the Press* the other day, saying that if aid isn't increased "there are going to be millions of people dying in the world." He says "800 million of them live on, in our terms, 30 cents a day, and are barely on the margin of life."

America isn't much interested. That's not the mood. UN Secretary-General Waldheim called it a "global emergency." James P. Grant, president of the Development Council, says that we ought to organize world action right away for otherwise "large-scale disaster" looms. He urges that Americans eat less beef and more chicken because it takes about seven pounds of grain to produce a pound of beef and only two or three pounds of grain to produce a pound of chicken. (The famine countries, you see, eat their grain straight without going through the meat process, and Grant thinks we might send them the extra grain and save "millions from premature deaths." He says beef is the counterpart of the big highway gas guzzler, while chicken is the "subcompact" in the food energy field.)

This may be true enough, but we aren't going to have any great food crusade; that takes leadership. Does anybody see any of that kind of moral leadership in Washington today? The awkward fact is that we have run out of food surpluses and there is only one way to give food to poor countries: through higher prices. Can you imagine Mr. Nixon appealing to the country to accept the burden of higher food prices in order to send aid to foreigners, a lot of them with dark skins?

The United States is about the only country that could give a lead. Last year the Era of Plenty may have permanently tipped over into the Era of Scarcity. World population will reach four billion next year and will double not long after 2000 AD by present projections. Where will supplies come for this enormous passenger list on Spaceship Earth? Prices go up as too many people chase too few goods. But the United States is still the soundest and richest country. It depends less on fuel imports than the rest and the prices of its own great export, farm goods, are booming. The United States and Canada dominate world food supplies as the Arabs do oil.

Obviously oil-rich Arabs and food-rich Americans should agree to help the poor countries. Such action requires planning, cooperation and sacrifice. But Mr. Nixon is in poor condition just now to ask for sacrifice. And his past policy has been to save on welfare at home, and to go easy on aid abroad. The volume of US help in the "Food for Peace" program in 1973 dropped to one third.

There is the moral argument. "I think that in all of human history it has been accepted that the strong will help the weak," Mr. McNamara said the other day. That has been the American tradition in times past. There is also the selfish consideration that hunger topples governments and brings riots, revolutions and war. America is going to take the risk.

The official attitude is to ignore the problem. In one international conference after another the US keeps a low profile. But the problem is there and will be seen before long; maybe on TV.

NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC.

Mr. PERCY. Mr. President, the 1974 National Convention of the National Federation of Business and Professional Women's Clubs will be held in Chicago from July 21–25. I am pleased to extend the Federation's invitation to all of my colleagues to either attend one of the convention's sessions or to send a message to the delegates from their respective States.

I am delighted that the president of the Federation this year is Jean McCarrey of Villa Grove, Ill., and want to take this opportunity to add my own welcome to the delegates who will attend the convention in July.

I ask unanimous consent that a letter from Audrey Harris, national hospitality chairman for the convention, as well as a list of the objectives of the Federation, be printed in the RECORD.

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

NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC.,

Chicago, Ill.

Senator CHARLES H. PERCY,
Washington, D.C.

DEAR SENATOR: We would appreciate your efforts to notify your colleagues that the National Federation of Business and Professional Women's Clubs, Inc., will be holding the National Convention on July 21–25, 1974 at the Hilton Hotel in Chicago, Illinois. The Federation will have delegates from every state in the union. We want to extend invitation to all your colleagues to make a special effort to attend one of the sessions, if unable to attend to send a special message to the delegates from their states. This Federation has a membership over 165,000 and indicates a powerful voting power.

We in Illinois are most proud for this year the President Miss Jean McCarrey is from the state of Illinois. For this reason, I would like this to be placed in the Congressional Record of the United States of America.

Respectfully,

AUDREY C. HARRIS,
National Hospitality Chairman.

OBJECTIVES OF THE FEDERATION

To elevate the standards for women in business and the professions.

To promote the interests of business and professional women.

To bring about a spirit of cooperation among the business and professional women of the United States.

To extend opportunities to business and professional women through education along lines of industrial, scientific and vocational activities.

U.N. SESSION ON RAW MATERIALS AND ECONOMIC DEVELOPMENT

Mr. HUMPHREY. Mr. President, on April 15, Secretary of State Henry Kissinger addressed the United Nations General Assembly special session on raw materials and economic development.

The theme of the Secretary's speech was the interdependent nature of the world economy and the inability of our nation or bloc of nations to determine the shape of the world.

He outlined six problem areas including the need to expand energy supplies, escaping from the raw-material surplus and shortage cycle, achieving balance between food and population, making provision to meet food emergencies, protection for the poorest countries, placing greater reliance on science and technology and revising trade and monetary policies.

I might add that the New York Times on April 14 included a summary of U.N. Secretary General Waldheim's statement to the General Assembly identifying six related problems leading to what he described as the "global emergency" facing both rich and poor nations. The six problems outlined by the Secretary General are mass poverty, rapid population growth, food shortage, energy scarcity, rampant military expenditures and a cumbersome monetary system.

It is not difficult to find evidence of the impact of these problems. We are told that 80 percent of Indian children below the age of 12 suffer from moderate to severe malnutrition and an equally high percentage of pregnant women in India suffer from nutritional anemia.

The poorer nations are compelled to spend their meager foreign exchange to meet food and energy needs at vastly inflated prices. The governments of these countries are consequently undermined by these combined pressures.

These problems, as outlined by both of these distinguished speakers, are certainly at the heart of the current world disorder. We are currently going through a period of very rapid change, but I think we need much more than fine speeches.

My concern is whether someone will pick up the challenge and provide the necessary leadership. We do not need further studies or reports. We need action.

The United States must take the lead in this effort. We need to find short-term answers to these issues wherever possible.

Mr. President, I ask unanimous consent that the speech of Secretary Kissinger and the summary of Secretary General Waldheim's remarks be printed in the RECORD.

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

ADDRESS BY SECRETARY OF STATE HENRY A. KISSINGER

Mr. President, Mr. Secretary General, Distinguished Delegates, Ladies and Gentlemen:

We are gathered here in a continuing venture to realize mankind's hopes for a more prosperous, humane, just and cooperative world.

As members of this Organization we are pledged not only to free the world from the scourge of war, but to free mankind from the fear of hunger, poverty and disease. The quest for justice and dignity—which finds expression in the economic and social articles of the United Nations Charter—has global meaning in an age of instantaneous communication. Improving the quality of human life has become a universal political demand, a technical possibility and a moral imperative.

We meet here at a moment when the world economy is under severe stress. The energy crisis first dramatized its fragility. But the issues transcend that particular crisis. Each of the problems we face—of combating inflation and stimulating growth, of feeding the hungry and lifting the impoverished, of the scarcity of physical resources and the surplus of despair—is part of an interrelated global problem.

Let us begin by discarding outdated generalities and sterile slogans we have—all of us—lived with for so long.

The great issues of development can no longer be realistically perceived in terms of confrontation between the haves and the have nots or as a struggle over the distribution of static wealth. Whatever our ideological belief or social structure, we are part of a single international economic system on which all of our national economic objectives depend. No nation or bloc of nations can unilaterally determine the shape of the future.

If the strong attempt to impose their views, they will do so at the cost of justice and thus provoke upheaval.

If the weak resort to pressure, they will do so at the risk of world prosperity and thus provoke despair.

The organization of one group of countries as a bloc will sooner or later produce the organization of the potential victims into a counterbloc. The transfer of resources from the developed to the developing nations—essential to all hopes for progress—can only take place with the support of the technologically advanced countries. The politics of pressure and threats will undermine the domestic base of this support. The danger of economic stagnation stimulates new barriers to trade and the transfer of resources.

We in this Assembly must come to terms with the fact of our interdependence.

The contemporary world can no longer be encompassed in traditional stereotypes. The notion of the northern rich and the southern poor has been shattered. The world is composed not of two sets of interests but many: developed nations which are energy suppliers and developing nations which are energy consumers; market economies and nonmarket economies; capital providers and capital recipients.

The world economy is a sensitive set of relationships in which actions can easily set off a vicious spiral of counteractions deeply affecting all countries, developing as well as technologically advanced. Global inflation erodes the capacity to import. A reduction in the rate of world growth reduces export prospects. Exorbitantly high prices lower consumption, spur alternative production and foster development of substitutes.

We are all engaged in a common enterprise. No nation or group of nations can gain by pushing its claims beyond the limits that sustain world economic growth. No one benefits from basing progress on tests of strength.

For the first time in history mankind has the technical possibility to escape the scourges that used to be considered inevitable. Global communication ensures that the thrust of human aspirations becomes universal. Mankind insistently identifies justice with the betterment of the human condition. Thus economics, technology and the sweep of human values impose a recognition of our interdependence and of the necessity of our collaboration.

Let us resolve to act with both realism and compassion to reach a new understanding of the human condition.

On that understanding, let us base a new relationship which evokes the commitment of the human condition.

On that understanding, let us base a new relationship which evokes the commitment of all nations because it serves the interests of all peoples.

We can build a just world only if we work together.

THE GLOBAL AGENDA

The fundamental challenge before this session is to translate the acknowledgement of our common destiny into a new commitment to common action, to inspire developed and developing nations alike to perceive and pursue their national interest by contributing to the global interest. The developing nations can meet the aspirations of their peoples only in an open expanding world economy where they can expect to find larger markets, capital resources and support for official assistance. The developed nations can convince their people to contribute to that goal only in an environment of political cooperation.

On behalf of President Nixon, I pledge the United States to a major effort in support of development. My country dedicates itself to this enterprise because our children must not live in a world of brutal inequality, because peace cannot be maintained unless all share in its benefits and because America has never believed that the values of justice, well-being and human dignity could be realized by one nation alone.

We begin with the imperative of peace. The hopes of development will be mocked if resources continue to be consumed in an ever increasing spiral of armaments. The relaxation of tensions is thus in the world interest. No nation can profit from confrontations that can culminate in nuclear war. At the same time, the United States will never seek stability at the expense of others. It strives for the peace of cooperation, not the illusory tranquility of condominium.

But peace is more than the absence of war. It is enobled by making possible the realization of humane aspirations. To this purpose this Assembly is dedicated.

Our goal cannot be reached by resolutions alone or prescribed by rhetoric. It must remain the subject of constant, unremitting efforts over the years and decades ahead.

In this spirit of describing the world as it is, I would like to identify for the Assembly six problem areas which in the view of the United States delegation must be solved to spur both the world economy and world development. I do so not with the attitude of presenting blueprints but of defining common tasks to whose solution the United States offers its wholehearted cooperation.

First, a global economy requires an expanding supply of energy at an equitable price.

No subject illustrates global interdependence more emphatically than the field of energy. No nation has an interest in prices that can set off an inflationary spiral which in time reduces income for all. For example, the price of fertilizer has risen in direct proportion to the price of oil, putting it beyond the reach of many of the poorest nations and thus contributing to worldwide food shortages. A comprehension by both producers and consumers to each other's needs is therefore essential:

Consumers must understand the desires of the oil producers for higher levels of income over the long-term future.

Producers must understand that the recent rise in energy prices has placed a great burden on all consumers, one virtually impossible for some to bear.

All nations have an interest in agreeing on a level of prices which contributes to an expanding world economy and which can be sustained.

The United States called the Washington Energy Conference for one central purpose: to move urgently to resolve the energy problem on the basis of cooperation among all nations. The tasks we defined there can become a global agenda for action.

Nations, particularly developed nations, waste vast amounts of existing energy supplies. We need a new commitment to global conservation and to more efficient use of existing supplies.

The oil producers themselves have noted that the demands of this decade cannot be met unless we expand available supplies. We

need a massive and cooperative effort to develop alternative sources of conventional fuels.

The needs of future generations require that we develop new and renewable sources of supply. In this field, the developed nations can make a particularly valuable contribution to our common goal of abundant energy at reasonable cost.

Such a program cannot be achieved by any one group of countries. It must draw on the strength and meet the needs of all nations in a new dialogue among producers and consumers. In such a dialogue the United States will take account of the concern of the producing countries that the future of their peoples not depend on oil alone. The United States is willing to help broaden the base of their economies and develop secure and diversified sources of income. We are prepared to facilitate the transfer of technology sources of income. We are prepared to facilitate the transfer of technology and assist industrialization. We will accept substantial investment of the capital of oil producing countries in the United States. We will support a greater role for the oil producers in international financial organizations as well as an increase in their voting power.

Second, a healthy global economy requires that both consumers and producers escape from the cycle of raw material surplus and shortage which threatens all our economies.

The principles which apply to energy apply as well to the general problem of raw materials. It is tempting to think of cartels of raw material producers to negotiate for higher prices. But such a course could have serious consequences for all countries. Large price increases coupled with production restrictions involve potential disaster: global inflation followed by global recession from which no nation could escape.

Moreover, resources are spread unevenly across the globe. Some of the poorest nations have few natural resources to export, and some of the richest nations are major commodity producers.

Commodity producers will discover that they are by no means insulated from the consequences of their restrictions on supply or the escalation of prices. A recession in the industrial countries sharply reduces demand. Uneconomical prices for raw materials accelerate the transition to alternatives. And as they pursue industrialization, raw material producers will ultimately pay for exorbitant commodity prices by the increased costs of the goods they must import.

Thus the optimum price is one that can be maintained over the longest period at the level that assures the highest real income. Only through cooperation between consumers and producers can such a price be determined. And an expanding world economy is an essential prerequisite. Such a cooperative effort must include urgent international consideration of restrictions on incentives for the trade in commodities. This issue must receive high priority in GATT—dealing with access to supply as well as access to markets—as we seek to revise and modernize the rules and conditions of international trade.

In the long term, our hopes for world prosperity will depend on our ability to discern the long-range patterns of supply and demand and to forecast future imbalances so as to avert dangerous cycles of surplus and shortage.

For the first time in history it is technically within our grasp to relate the resources of this planet to man's needs. The United States therefore urges that an international group of exports, working closely with the United Nations division of resources, be asked to undertake immediately a comprehensive survey of the earth's non-renewable and renewable resources.

Third, the global economy must achieve a balance between food production and population growth and must restore the capacity to meet food emergencies. A condition in which one billion people suffer from malnutrition is consistent with no concept of justice.

Since 1969, global production of cereals has not kept pace with world demand. As a result current reserves are at their lowest level in 20 years. A significant crop failure today is likely to produce a major disaster. A protracted imbalance in food and population growth will guarantee massive starvation—a moral catastrophe the world community cannot tolerate.

No nation can deal with this problem alone. The responsibility rests with all of us. The developed nations must commit themselves to significant assistance for food and population programs. The developing nations must reduce the imbalance between population and food which could jeopardize not only their own progress but the stability of the world.

The United States recognizes the responsibility of leadership it bears by virtue of its extraordinary agricultural productivity. We strongly support a global cooperative effort to increase food production. This is why we proposed a world food conference at last year's session in the General Assembly.

Looking toward that conference, we have removed all domestic restrictions on production. Our farmers have vastly increased the acreage under cultivation and gathered record harvests in 1973. 1974 promises to be even better. If all nations make a similar effort, we believe the recent rise in food prices will abate this year, as it has in recent weeks. Indeed the price of wheat has come down 35 percent from its February peak and the price of soybeans 50 percent from its peak last summer.

The United States is determined to take additional steps. Specifically:

We are prepared to join with other governments in a major worldwide effort to rebuild food reserves. A central objective of the World Food Conference must be to restore the world's capacity to deal with famine and other emergencies.

We shall assign priority in our aid program to helping developing nations substantially raise their agricultural production. We hope to increase our assistance to such programs from $258 to $675 million this year.

We shall make a major effort to increase the quantity of food aid over the level we provided last year.

For countries living near the margin of starvation, even a small reduction in yields can produce intolerable consequences. Thus the shortage of fertilizer and the steep rise in its price is a problem of particular urgency—above all for countries dependent on the new high-yield varities of grain. The first critical step is for all nations to utilize fully existing capabilities. The United States is now operating its fertilizer industry at near capacity. The United States is ready to provide assistance to other nations in improving the operation of plants and to make more effective use of fertilizers.

But this will not be enough. Existing worldwide capacity is clearly inadequate to present needs. The United States would be prepared to offer its technological skills to developing a new fertilizer industry especially in oil-producing countries using the raw materials and capital they uniquely possess.

We also urge the establishment of an international fertilizer institute as part of a larger effort to focus international action on two specific areas of research: improving the effectiveness of chemical fertilizers, especially in tropical agriculture, and new methods to produce fertilizers from non-petroleum resources. The United States will contribute facilities, technology and expertise to such an undertaking.

Fourth, a global economy under stress cannot allow the poorest nations to be overwhelmed.

The debate between raw material producers and consumers threatens to overlook that substantial part of humanity which does not produce raw materials, grows insufficient food for its needs and has not adequately industrialized. This group of nations, already at the margin of existence, has no resource to pay the higher prices for the fuel, food and fertilizer imports on which their survival depends.

Thus, the people least able to afford it—a third of mankind—are the most profoundly threatened by an inflationary world economy. They face the despair of abandoned hopes for development and the threat of starvation. Their needs require our most urgent attention. The nations assembled here in the name of justice cannot stand idly by in the face of tragic consequences for which many of them are partially responsible.

We welcome the steps the oil producers have already taken towards applying their new surplus revenues to these needs. The magnitude of the problem requires, and the magnitude of their resources permits, a truly massive effort.

The developed nations too have an obligation to help. Despite the prospect of unprecedented payments deficits, they must maintain their traditional programs of assistance and expand them if possible. Failure to do so would penalize the lower income countries twice. The United States is committed to continue its program and pledges its ongoing support for an early replenishment of the International Development Association. In addition we are prepared to consider with others what additional measures are required to mitigate the effect of recent commodity price rises on low-income countries least able to bear this.

Fifth, in a global economy of physical scarcity, science and technology are becoming our most precious resource. No human activity is less national in character than the field of science.

No development effort offers more hope than joint technical and scientific cooperation.

Man's technnical genius has given us labor-saving technology, healthier populations, and the green revolution. But it has also produced a technology that consumes resources at an ever expanding rate; a population explosion which presses against the earths finite living space; and an agriculture increasingly dependent on the products of industry.

Let us now apply science to the problems which science has helped to create.

To help meet the developing nations' two most fundamental problems—unemployment and hunger—there is an urgent need for farming technologies that are both productive and labor-intensive. The United States is prepared to contribute to international programs to develop and apply this technology.

The technology of birth control should be improved.

At current rates of growth, the world's need for energy will more than triple by the end of this century. To meet this challenge, the United States Government is allocating $12 billion for energy research and development over the next five years, and American private industry will spend over $200 billion to increase energy supplies. We are prepared to apply the results or our massive effort to the massive needs of other nations.

The poorest nations, already beset by man-made disasters, have been threatened by a natural one: the possibility of climatic changes in the monsoon belt and perhaps throughout the world. The implications for

global food and population policies are ominous. The United States proposes that the International Council of Scientific Unions and the World Meterorological Organization urgently investigate this problem and offer guidelines for immediate international action.

Sixth, the global economy requires a trade, monetary and investment system that sustains industrial civilization and stimulates its growth.

Not since the 1930s has the economic system of the world faced such a test. The disruptions of the oil price rises; the threat of global inflation; the cycle of contraction of exports and protectionist restrictions; the massive shift in the world's financial flows; and the likely concentration of invested surplus oil revenue in a few countries—all threaten to smother the once-proud dreams of universal progress with stagnation and despair.

A new commitment is required by both developed and developing nations to an open trading system, a flexible but stable monetary system, and a positive climate for the free flow of resources, both public and private.

To this end the United States proposes that all nations here pledge themselves to avoid trade and payments restrictions in an effort to adjust to higher commodity prices.

The United States is prepared to keep open its capital markets, so that capital can be recycled to developing countries hardest hit by the current crisis.

In the essential struggle to regain control over global inflation, the United States is willing to join in an international commitment to pursue responsible fiscal and monetary policies. To foster an open trading world, the United States, already the largest importer of developing nation manufactures, is prepared to open its markets further to these products. We shall work in the multilateral trade negotiations to reduce tariff and nontariff barriers on as wide a front as possible.

In line with this approach we are urging our Congress to authorize the generalized tariff preferences which are of such significance to developing countries.

CONCLUSION

All too often international gatherings end with speeches filed away and resolutions passed and forgotten. We must not let this happen to the problem of development. The complex and urgent issues at hand will not yield to rhetorical flourishes or eloquent documents. Their resolution requires a sustained and determined pursuit in the great family of United Nations and other international organizations that have the broad competence to deal with them.

As President Nixon stated to this Assembly in 1969:

"Surely if one lesson above all rings resoundingly among the many shattered hopes in this world, it is that good words are not a substitute for hard deeds and noble rhetoric is no guarantee of noble results."

This Assembly should strengthen our commitment to find cooperative solutions within the appropriate forums such as the World Bank, the International Monetary Fund, the GATT, and the World Food and Population Conferences.

The United States commits itself to a wide-ranging multilateral effort.

Mr. President, Mr. Secretary General, we gather here today because our economic and moral challenges have become political challenges. Our unprecedented agenda of global consultations in 1974 already implies a collective decision to elevate our concern for man's elementary well-being to the highest political level. Our presence implies our recognition that a challenge of this magnitude cannot be solved by a world fragmented into self-contained nation states or competing blocs.

Our task now is to match our physical needs with our political vision.

President Boumediene cited the Marshall Plan of a quarter century ago as an example of the possibility of mobilizing resources for development ends. But then the driving force was a shared sense of purpose, of values and of destination. As yet we lack a comparable sense of purpose with respect to development. This is our first requirement. Development requires above all a spirit of cooperation, a belief that with all our differences we are part of a larger community in which wealth is an obligation, resources a trust, and joint action a necessity.

We need mutual respect for the aspirations of the developing and the concerns of the developed nations. This is why the United States has supported the concept of a Charter of Economic Rights and Duties of States put forward by President Echeverria of Mexico.

The late President Radhakrishnan of India once wrote:

"We are not the helpless tools of determinism. Though humanity renews itself from its past, it is also developing something new and unforeseen. Today we have to make a new start with our minds and hearts."

The effort we make in the years to come is thus a test of the freedom of the human spirit.

Let us affirm today that we are faced with a common challenge and can only meet it jointly.

Let us candidly acknowledge our different perspective and then proceed to build on what unites us.

Let us transform the concept of world community from a slogan into an attitude.

In this spirit let us be the masters of our common fate so that history will record that this was the year that mankind at last began to conquer its noblest and most humane challenge.

WALDHEIM'S LIST OF THE GREAT CRISES

United Nations Secretary General Waldheim last week set the tone for a special General Assembly session on raw materials by referring to the "global emergency" that faces both rich and poor nations. In his speech, Mr. Waldheim raised six related world problems:

"First, mass poverty. The single most devastating indictment of our current world civilization is the continued existence of stark, pervasive poverty among two-thirds of the world population. It permeates every phase of life in developing countries: in the malnutrition of children, in the outbreaks of diseases, in widespread unemployment, in low literacy rates, in overcrowded cities. . . .

"Second, the population of the world. It is anticipated that this special session will meet for three weeks. In that time the number of human beings on this planet will increase by four million. . . .

"Third, food. Never in recent decades, have world reserves been so frighteningly low. The production of enough food to feed . . . people all over the world—let alone transport and distribute it—almost certainly represents the largest single pressure on our natural resources. . . .

"Four, energy. The world at large has suddenly realized the critical importance of energy in our daily lives. . . . What can we do to conserve this most precious resource? What can we do to eliminate waste?

"Fifth, military expenditure. During . . . this Assembly session some $14-billion will have been spent on armaments. . . . The imperative need for substantial disarmament becomes more urgent as each day passes.

"Sixth, the world monetary system. . . . The existing system is not working efficiently. It contains a most dangerous, cancer-like disease—inflation. . . . Unless inflation can be controlled it is impossible to secure the optimum use of our nature resources."

FEO AUDIT FINDS OIL DATA CORRECT

Mr. FANNIN. Mr. President, last week while the Senate was in recess, a report appeared in several of the newspapers, including the New York Times and the Washington Post, of findings by the then Director of the Federal Energy Office, Mr. William Simon. The story indicated that the FEO audit finds the oil data correct. Mr. Simon's office has conducted audits and, on the basis of them, it appears that the major oil companies have been telling the truth about their supplies.

Mr. Simon further indicates that the ongoing energy office audits of refineries have turned up no evidence that oil companies are lying about their inventories. He said that the Government has made giant strides in convincing the American people that the fuel shortage is real. Further congressional hearings and Government investigations eventually will remove much of the emotion from the debate which surrounds the fuel shortage and Americans will come to realize that the energy crisis is real.

There are, of course, many actions which need to be taken in order to reduce our dependency on foreign sources of crude oil and natural gas and to stimulate the exploration and production of oil and gas in the United States. Not only must we encourage the domestic exploration efforts both onshore and offshore but at the same time promote the conservation ethic in order to reduce demand below projected levels of consumption.

Among the effective means to produce both those goals is the elimination of price controls on crude oil or its derivative products. Free market prices for the raw material will certainly act as an incentive and this is needed particularly in the search for new gas. At the same time a price rise if any in petroleum products will tend to diminish slightly our current high rate of demand.

I believe that the article from the Washington Post of April 18, 1974 will be of interest and therefore ask unanimous consent that it be printed in full at this point.

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

FEO AUDIT FINDS OIL DATA CORRECT

The major oil companies apparently are telling the truth about their supplies, based on audits by the Federal Energy Office, energy chief William E. Simon says.

Simon said that the ongoing energy office audits of refineries have turned up no evidence that oil companies are lying about their inventories.

In an interview, the energy chief said that the government has made giant strides in convincing the American people that the fuel shortage is real. "We're still going through the scapegoat phase in this country," he said.

But Simon added that congressional hearings and government investigation eventually will remove much of the emotion from the debate and Americans will realize the energy crisis is real.

Simon who is expected to be named Treasury Secretary today, said that first-quarter profits of the oil companies as well as second-quarter profits will be embarrassing to the oil firms.

He also said that with the end of the Arab oil embargo, conservation efforts by Americans are continuing. "I am optimistic that demand will not explode," he said.

Simon declined to discuss specific questions about economic policy, but he did say that wage-price controls have introduced distortions and inequities in the nation's economy. But he said he wouldn't rule out the possibility that one day they might be reimposed.

He said he subscribed to President Nixon's statement that the American people are taxed enough, but he said the tax system is in constant need of study to make sure, it is equitable.

"We must continue to look at our tax system and make sure it is being brought up to date," Simon said. "Nothing is perfect."

The price of gasoline will rise only a few cents a gallon on the average nationally, but there will be significant regional price increases in areas or by oil companies that depend heavily on imported oil, he said.

That is true even if it is assumed that imports will peak at about 7½ million barrels a day this summer, he said.

Asked if he regretted calling the Shah of Iran reckless and irresponsible for the Shah's statement that the United States received greater oil shipments during the embargo, Simon said he had only called the statement reckless and irresponsible.

There's a big difference, he said, adding that the nation's system of monitoring oil imports "is as foolproof as any system we have in this country."

Although it had been reported that the White House was upset because of Simon's reply to the Shah of Iran, Simon said he had no trouble with the White House for the statements.

Simon said he couldn't answer questions on the appointment of the Treasury Secretary. But when asked how the secretary fits into the scheme of running economic policy, he said, "The Secretary of the Treasury is the chief financial officer of the United States."

GENOCIDE CONVENTION: A MATTER OF CONSCIENCE

Mr. PROXMIRE. Mr. President, I sometimes wish that I did not find it necessary to stand up here every day and speak in support of the United Nations Genocide Convention. As you know, I have been doing this on every day of every session for the past 8 years, and I would not mind at all if I were able to cease it in good conscience.

But conscience is the very reason why I cannot—my own conscience, that of our Nation, and that of mankind as a whole. For the Genocide Convention is that rarity among international agreements, a document that deals not with economic or military arrangements but with a matter of basic morality—the right of all peoples to freedom and security. It is a statement that puts all the signatories to it on record in defense of that right, and pledging to do all that they can to protect it. It is a worthwhile document that more than merits our approval.

And so, Mr. President, I intend to continue speaking in favor of this treaty, as a matter of conscience, until it is once again brought before this body for debate. I believe that simple humanity demands that I do no less.

OCEAN POLICY STUDY

Mr. HOLLINGS. Mr. President, as chairman of the Senate's National Ocean Policy Study, I will be working with our colleagues on looking at many ocean-related issues. One of the foremost among them is the possible utilization of ocean sources of energy.

A special request recently has been made of the National Academy of Engineering and the National Academy of Science to examine this issue.

I ask unanimous consent, Mr. President, that a report on this request, drafted by Mr. Robert Kay of the National Oceanic and Atmospheric Administration, be printed in its entirety in the RECORD.

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

A STUDY TO EVALUATE ENERGY FROM THE OCEAN

On February 25 and 26, 1974, at the University of Miami Rosenstiel School of Marine and Atmospheric Science, an Ocean Energy Systems Workshop was held with scientists, engineers, and administrators from academia, government, and the private sector in attendance. The resolution of the Workshop was that there were various alternative ways of extracting energy from the ocean that could have a significant impact upon the total energy supply of the United States, at costs that could be competitive with other energy sources. It was recommended that the National Academy of Engineering and the National Academy of Science assemble suitable committees drawn from academia, government and industry to

Conduct an overview study of ocean energy systems.

Establish priorities for the scientific and engineering tasks associated with those energy-from-the-ocean alternatives which were determined to be most promising.

Identify desirable executive or legislative initiatives and institutional frameworks.

The need for such a study arises from various factors. First, among these, is the question of the allocation of limited Federal financial resources: of the many schemes of extracting energy from the ocean, which one(s) is (are) the most promising and should receive the largest proportion of funds? Closely associated with this question, is the need for a rationale to determine appropriate annual funding levels. Another important requirement is the need for reliable and sound information on the feasibility, costs, and environmental effects of energy from the ocean. Such information is required as input to the Environmental Statement of other power plants entering the construction phase, such as the Liquid Metal Fast Breeder Reactor.

A comprehensive National Academies' study of energy from the ocean can also identify what new institutional arrangements may be necessary. For example, by analogy with atomic energy, does energy from the ocean need

A new lead focal agency, like the Atomic Energy Commission;

A central single minded leader, like Admiral Rickover;

Subsidies to private industry, like the uranium fuel subsidy or the Price Anderson Third Party Liability Act

A means for international cooperation, like the International Atomic Energy Administration, etc.

Such a study could also be an important and timely input to Senate Resolution S. 222, the Congressional Study (currently getting under way) to determine a National Policy for the Ocean.

DISCUSSION

A study to evaluate energy-from-the-ocean should consider various factors and criteria. Some of these are identified and discussed below.

Sources of energy-from-the ocean

Energy-from-the-Ocean, as used in this study, consists primarily of the energy from solar or gravitational radiation as it acts on or over the ocean. It specifically excludes all petroleum, natural gas, coal or materials for fission or fusion that may be obtainable from offshore locations.

Energy-from-the-Ocean can be classified into two groups, as follows:

I. Sources of Energy Unique to the Ocean
Ocean Thermal Differences;
Waves (wind derived);
Currents;
Tides;
Salinity Gradient; and
Electromagnetic Induction

II. Sources of Energy from Ocean locations, available also on land
Wind;
Photosynthesis (bioconversion);
Photothermal effect;
Photovoltaic effect; and
Geothermal sources.

Utilizing the above dichotomy, it is expected that enhanced clarity can be obtained for those sources in Group II, relating to advantages, disadvantages, costs, and effects of ocean locations vs. land locations.

Evaluation of source

A primary consideration for evaluating any source of ocean energy is the magnitude of the resource (available to the United States and worldwide) to determine its significance to the Nation (and the World's) projected energy requirements. This is important, because what may appear surficially to be a very large source of power may be large only when compared to a limited geographical need, and not to the future National (or World) need.

Other considerations for evaluating the source relate to the spatial density of its power (e.g. watts/sq. meter) and its time variability. Both of these latter factors are important in their effect on the size and control characteristics of the conversion plant.

Near-term and long-term development

Sources of energy that can meet all or a major portion of the Nation's present or future (e.g. year 2000 and beyond) requirements, are possible contenders for major governmental developmental assistance. Thus, controlled thermonuclear fusion continues to receive governmental support, more for its promise than its reality.

At the other end of the spectrum of technological feasibility, are the vocal advocates who unwittingly espouse a course that can be summarized as "Because it can be built, it should be built." It is hoped that this study would clarify a rational path for governmental actions that can wisely assist in meeting near-term and/or long-term energy requirements of the Nation (and World).

Engineering and technology

The stages in the development of advanced technological applications can be identified as follows:

Technical Feasibility—This is the stage, consisting primarily of R&D, where basic technical aspects are confirmed through analytical investigation, laboratory scale experiments, and conceptual engineering.

Proof-testing—This is the phase in which engineering, manufacturing, and test capabilities are developed to assure adequate understanding of the performance characteristics of first-of-a-kind components.

Demonstration Plant—This is the phase that precedes commercial application. It refers to the design, fabrication and operation of a plant, in the 1–10 Mwe output range, in which the operational reliability, safety

and economics can be evaluated for application by private utilities.

As a result of the Study, it would be expected that estimates of the costs, schedules and detailed engineering needs of desirable systems will be provided.

A long-range environmental factor

It is important, when evaluating energy production alternatives, that consideration be given to long-term fundamental investigations that provide options for the United States many decades into the future.

It is well known—but often overlooked—that all energy consumed is eventually degraded to heat and discharged into the environment. Thus all of today's energy consumption ends up as heat, which represents an additional load that the atmosphere must radiate to outer space.

To place the heat release from man's energy use in perspective, one needs to consider the total energy received by the earth's atmosphere from the sun. At present, the ratio of heat from energy consumed to solar energy absorbed is a very small factor amounting to only 0.6×10^{-4}.

However if one considers the world population at four times today's and a per capita energy consumption about twice today's U.S. consumption, one can calculate a ratio of heat release from energy consumption to solar energy absorption of about 0.4%. This is a ratio large enough to be of considerable concern to the global impact on climatic conditions of the earth.

At the current 5.5% annual growth rate of world energy consumption, the consumption level postulated in the last paragraph would be reached in 75 years. Recognizing that the period of rapid growth in energy use for western society dates from the Industrial Revolution, beginning approximately 150 years ago, it is not impossible, or even improbable, for developing societies to absorb and use already developed energy-intensive technology in 75 years.

Summarizing, as world-wide energy use increases, in as short a time as a century, the large scale consumption of the internal energy of chemical fission, or fusion energy degraded to heat and injected into the atmosphere could make possible world-wide effects which are unknown, but potentially disastrous.

To alleviate this condi'ion, it is only necessary for energy used by man to be derived from solar energy, gravitational energy, or geothermal energy instead of from the release of the internal latent energy of fission, fusion, or oxidation. This environmental characteristic is common to all forms of energy-from-the-ocean.

Environmental impacts

Although energy from the ocean does not have associated with it any form of particulate pollution, it should be recognized that there is associated with each variety, environmental effects which may or may not be favorable. For example, utilizing the Gulf Stream as a power source may affect the turbulent vortices on its "edges," thereby affecting the movement of the larvae of Coastal fish or shellfish and thus the geographic location of specific inshore fisheries. Similarly utilizing wave energy at an offshore location may affect the movement of sand beaches in a mode that may cause either replenishment or erosion. Likewise, thermal ocean difference conversion may set up an upwelling, with possible algal growth, that may be beneficial for marine life, but undesirable for water sports or aesthetics.

This study should identify possible environmental impacts with suitable recommendations for their negation or evaluation.

Cost benefits and research

At present, criteria for government action are based on early consequences and results. The activity most closely resembling a long-term approach is a cost-benefit analysis based on interest rates that are pegged to today's cost of investment capital, modified to account for uncertainty and risk. Within this context, energy-from-the-ocean must compete with energy from fossil and nuclear fuels.

However, there is a vast difference in the response times between marketplace economics, technology, development, basic research, and the biological and physical processes of our ecosphere. What is therefore also needed are suggested governmental actions, adjustments to domestic policy, and action programs, including basic and applied research, that would more adequately deal with future uncertainty and global risk.

New institutional requirements or thrusts

To stimulate more effective responses to changing domestic and world needs for energy, various questions arise:

Are any new national or international mechanisms or thrusts required?

What is necessary for greater industry participation?

Do ocean energy sources need a sharper governmental focus to prevent their being overlooked?

What are proper roles of industry, academic and government in energy from the sea?

It is hoped that the Study will offer appropriate perspective and response to these questions.

A NIGHT PROSECUTOR'S PROGRAM

Mr. TAFT. Mr. President, on February 18 of this year the night prosecutor's program in Columbus, Ohio, was designated as an exemplary project by the National Institute of the Law Enforcement Assistance Administration—LEAA. This program staffed by law students from the Capital University Law School has been extremely successful in reducing the criminal docket of the city of Columbus courts and has provided great personal assistance to many citizens in the community.

The basic procedure through the night prosecutor program includes a pretrial diversion program whereby law school students are involved in an informal administrative proceeding to determine whether a criminal warrant should be issued in particular cases. The jurisdiction of the program primarily has been interpersonal disputes, although the program recently has been extended to cover bad check cases. Prior to implementation of this program in November of 1971 most disputes in Columbus resulted in an affidavit being filed, and a warrant issued. The procedure now applied through the night prosecutor program involves an informal pretrial hearing procedure in which the complainant, witnesses, and the accused, are provided the opportunity to present their side of a particular dispute. The hearing officer acts more in the role of a mediator and conciliator and attempts to bring in the expertise of social agencies where possible. At no time is a criminal record made and the formal rules of evidence are not applied. Experience has shown that quite often the charging party was initially acting on emotional instinct and the case is dropped without even the administrative hearing.

In a number of other cases an informal forum for considering the case resulted in a settlement or expeditious solution to the dispute without a criminal hearing. This approach has obvious advantages for parties involved and does not burden the judicial system. The cost savings to a city can be sizable. The experience of the night prosecutor program in Columbus shows a total of 3,992 cases diverted out of the criminal justice system in the fiscal year ending September 1, 1973. Estimating that the cost of processing one criminal case in Columbus to be $200, a savings of $798,400 was realized for an initial outlay of $60,000 Federal funds and $20,000 city funds.

This program, indeed, deserves the praise of the LEAA. Hopefully Prof. John Palmer, director of the program, and students of the Capital University Law School, will continue to provide this valuable community service and other cities throughout the country can benefit from their excellent work.

DEATH OF JOHN F. GRINER

Mr. McGEE. Mr. President, the news out of Cairo, Ga., yesterday was sad. John F. Griner, former president of the American Federation of Government Employees and a member of the executive council of the AFL-CIO, died at his home there after a long illness.

Mr. Griner was 66 when he passed from this world, which he enjoyed so thoroughly. He was at home, in Cairo, with his wife Claranell, who survives him along with two sons and two grandchildren.

To those of us who knew John as the result of his leadership of the AFGE, the man was something of a diamond in the rough. He could be stubborn and hard-bitten in the interests of the Federal work force. But he was filled with kindness for people in all walks of life. For a decade this strong but sensitive man led the American Federation of Government Employees, increasing its membership from barely 100,000 when he was first elected president in 1962 to more than 325,000 when he left that post in 1972 and went back home to Georgia. He did not exactly retire, however. John remained an active member of the AFL-CIO executive council to the end.

John's career as a Federal employee began in Chicago in 1936 when be began work as an adjudicator for the Railroad Retirement Board, with which he served until his election as president of AFGE. At that time, in 1962, he was the agency's labor relations officer and had 16 years of experience as the Midwest vice president of the union which he has built into a very significant power.

Mr. Griner's accomplishments already have embellished the history of the Federal civil service.

Public Law 92-392, the Wage Board Act, was one of John Griner's fondest goals, and one he achieved before stepping down as president of AFGE. But it was not the only example of legislation bettering the conditions of Federal employees which became law during his tenure at AFGE. Indeed, the decade from 1962 to 1972 marked a great upswing in the status of Federal workers, and the evidence is great that this was no coincidence. The principle of pay compara-

bility was established in this era, and other benefits such as improved health benefits were enacted.

All in all, an impressive record was established, due in large part to aggressive leadership on the part of John Griner who represented well the interests of the civil servant.

Mr. President, we who serve on the Post Office and Civil Service Committee have in particular lost a friend. John was, as I have said, a sometimes stubborn, and always tenacious, advocate of the employee's interest, but he was reasonable and honorable and has left behind many fond memories. Mrs. Griner and her family have lost more, of course. They have lost a warmhearted husband and father.

TRADE REFORM ACT OF 1973

Mr. PACKWOOD. Mr. President, the Committee on Finance has concluded its hearings on the Trade Reform Act. A significant volume of testimony was received during the course of those 3 weeks. A principal point of concern that was explored by the committee was with respect to the need for international agreements on access to supplies.

Of particular value to the committee was the testimony and response to questions of Prof. Richard Gardner of Columbia University. Dick Gardner has pointedly reviewed the history associated with international concern over the access to supplies of raw materials. His statement is a valuable resource for anyone seeking to better understand the background of this issue and the implications that flow from actions to restrict access to supplies.

I ask unanimous consent that Dick Gardner's statement before the Senate Finance Committee be printed in the RECORD in its entirety at the conclusion of my remarks. Also, I strongly urge my colleagues to examine Dick Gardner's statement. To understand this statement will do much to enable each of us to rationally respond to the problems we face as a nation and to develop appropriate policies to solve these problems.

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

STATEMENT OF RICHARD N. GARDNER [1]

I am grateful for this opportunity to testify before the Senate Finance Committee on the Trade Reform Act of 1973. In accordance with your request, I shall focus on the so-called "Mondale amendments" and then go on to offer some specific suggestions for strengthening the legislation in other respects.

Let me state at the outset that I consider the Trade Reform Act of 1973 to be, on the whole, a good piece of legislation. I believe its enactment this year to be highly important to the national interest of the United States, for two main reasons:

First, the rules and institutions governing world trade are in dangerous disarray. They must be revised and strengthened—soon—if we wish to preserve and enlarge the benefits of a cooperative world trading order and avoid a further drift toward economic conflict. Without the negotiating authority provided in this bill, the United States will be powerless to work for a new trading order in its own and the general world interest.

As this Committee is well aware, major changes are required in our trade relations with every part of the world—with the developed non-Communist countries, with the Communist nations, and with the developing areas. If we do not pass a trade bill this year, it will be difficult to pass one before 1977. Thus we may lose our last clear chance to reform the world trading system in this decade and avoid an irreversible deterioration in our relations with these key groups of nations.

Second, the energy crisis has added an even greater urgency to world trade negotiations. Faced with large trade deficits from sharply higher oil costs, virtually all the world's major nations will be under severe pressure to resort to trade restrictions or trade-distorting measures to protect their trade positions and push the burden of adjustment onto others. This would be a serious problem even in a world with strong institutions for trade cooperation and clear and equitable ground rules covering resort to tariff and non-tariff barriers. It could prove an unmanageable problem in the world in which we now find ourselves—a world with a debilitated GATT and with outmoded, ambiguous, and, on some subjects, non-existing trading rules. Without this bill, one would have to view with profound pessimism the prospects of finding cooperative solutions for the trade problems caused by the energy crisis.

THE MONDALE AMENDMENTS

Last fall, in a statement before the National Foreign Trade Convention, I urged that the Trade Reform Act of 1973 should be revised to focus on access to supplies as well as access to markets. Senator Mondale has introduced a number of amendments to the bill to accomplish this purpose. They deserve the most careful and sympathetic consideration. Our national interest, and the interest of the world community generally, would be served by the adoption of amendments along the lines which Senator Mondale has proposed.

The case for such amendments was developed fully in Senator Mondale's statement to the Senate on December 3. But perhaps I may add a few thoughts on the history, the law, and the politics of this difficult and complex subject.

In August 1941, Franklin Roosevelt and Winston Churchill met on a destroyer off Newfoundland to draft the Atlantic Charter, a statement of postwar aims which could unite freedom-loving people everywhere in the fight against fascism. The fourth paragraph of the Charter proclaimed the principle of "access, on equal terms, to the trade and to the raw materials of the world."

The motivation behind the fourth paragraph of the Atlantic Charter was simple. The leaders of the wartime alliance believed that peace could not be achieved unless it had a sound economic basis. The experience of the first four decades of this century suggested that if countries were denied access to raw materials and markets, they might be tempted to secure them by resort to force—or a least would seek to justify aggression on the grounds that they were denied the opportunity to meet their economic requirements through peaceful means.

Cordell Hull, the father of the trade agreements program, was a believer in the theory that "if goods can't cross borders, armies will." This perception of the close relation between economic policies and peace had a profound influence not only on the Atlantic Charter but on other wartime statements and on postwar planning.

Yet despite this background, international economic negotiations from the end of the Second World War to the present time have focused almost entirely on access to markets and have virtually ignored the problem of access to supplies. The reason for this one-sided emphasis is obvious—for most of the postwar period the central problem seemed to be how to avoid depression and unemployment by selling goods to other countries. Now, however, we are moving into an era of resource scarcity and accelerating inflation—an era which requires a new approach to international economic policy, or perhaps we should say a return to the old and forgotten perceptions which lay behind the fourth paragraph of the Atlantic Charter.

Raw material access has acquired a new importance for the United States. By 1985 our country, even if it achieves energy self-sufficiency will be primarily dependent on imports for nine of the thirteen basic minerals required by a modern industrial economy. As Lester Brown has pointed out, within the relatively brief fifteen year span of 1970–1985, "we will have made the transition from being an essentially self-sufficient country to—at least in terms of raw materials—a have-not country. We do not yet appreciate the economic, social, and political consequences of this historically abrupt transition."

The Arab oil embargo was undertaken with the explicit purpose of forcing the United States and its allies in Europe and Japan to change their policies on the Middle East. It has been lifted, but subject to further review in the light of progress toward a Middle East settlement. Moreover, output is being held well below capacity for economic as well as political reasons.

Other raw material suppliers, encouraged by the success of the oil embargo, now threaten to follow suit. Representatives from 16 East and Central African countries meeting in Dar-Es-Salaam, Tanzania on November 24, 1973, called for diplomatic, economic and other sanctions against the United States, Britain, France, West Germany, Japan and Brazil unless they ceased "support" for white minority regimes in Southern Africa. The Chairman of the conference, Foreign Minister John W. S. Malecela of Tanzania, said the sanctions could include a ban on both exports to and imports from the United States and the other named countries. Although most of the sixteen countries do not posses materials of vital importance to us, some of them, such as Zaire, the former Belgain Congo, clearly do.

What is perhaps more to the point, many developing countries are now tempted to form producer cartels for the purpose of raising prices and achieving international transfers of wealth that seem otherwise impossible. One well informed observer, Ugandan social scientist Ali Mazrui, sums up their attitude as follows:

"From the point of view of millions of Asians and Africans, the Arab oil sanctions against select Western countries will probably rank in history alongside Japan's victory over Russia in 1905—as milestones in the story of how Asians and Africans discovered their own potential power against Caucasian might . . . As a lever against the rich, certain Third World resources will become the equivalent of organized labor in the history of the industrialized countries—as a basis for collective bargaining."

Statements to the same effect were made recently by Algerian representatives at a meeting of developing countries in preparation for the forthcoming U.N. General Assembly on raw materials and economic development.

---

[1] Richard N. Gardner, Professor of Law and International Organization at Columbia University, served as Deputy Assistant Secretary of State for International Organization Affairs in the Kennedy Administration and was a member of President Nixon's Commission on International Trade and Investment Policy in 1970–71.

Economists disagree as to the probable success of price-raising producer cartels for materials other than petroleum. My own view is that growing resource pressures do promise some additional bargaining power to many developing countries, but that outside of oil the possibilities for successful producer cartels to raise prices are very doubtful—either the producers lack the identity of interest and the necessary foreign exchange reserves for a collective cutback in supply, or the consumers have too many other options in the form of large stockpiles, home-based production, and the availability of substitutes.

Producer cartels may achieve some results for their organizers in the short run, but in the middle and long run they are likely to backfire. The danger is that a policy of confrontation could push developed countries into policies of self-sufficiency, denying developing countries the technical assistance, the capital and the market access without which they cannot meet their development goals. In the economic and political backlash, even the resource-rich developing countries would lose; and the have-not countries would lose most of all. The role of international law and organization, in my view, should be to reinforce cooperative behavior that will serve the long-run interest of all. Specifically, this would mean restricting the right of producer nations to form price-raising cartels except as part of mutually-agreed commodity arrangements in cooperation with consuming countries, as was proposed in the Charter for an International Trade Organization 25 years ago.

Lest we adopt an unduly self-righteous attitude on these matters, we should recognize frankly that the United States itself has been one of the worst offenders in using export controls in ways which have adversely affected other countries. For years we have applied an embargo on trade with Cuba. Last summer, we unilaterally cut off exports of soybeans and other agricultural products to our trading partners in Europe at the very time that we were pressing them to modify policies of agricultural self-sufficiency and become dependent on our production.

It is obvious from these examples that the whole concept of an open and cooperative trading system is under serious attack. International trade is becoming heavily "politicized." This trend is destroying the traditions of reasonably free and non-discriminatory access to markets and supplies that are essential in an increasingly interdependent world.

Since the U.N. Charter, countries are no longer permitted to use force to back up their economic claims. Quite apart from legal prohibition, such actions now entail costs and risks that make them politically undesirable. But if the Atlantic Charter concept of equal access to raw materials cannot be guaranteed by the use of force, we need to consider guaranteeing it in some other way.

There is no easy solution to this problem, but it is certainly in our own and the general interest to try to develop some new international rules and procedures to assure reasonable access to raw materials. The present state of international law in this area is not satisfactory. The General Agreement on Tariffs and Trade does contain a general prohibition on the use of export and import controls (Article XI) as well as a requirement that both export and import controls should not discriminate between countries (Article I). Article XX of GATT permits measures deviating from these and other GATT rules "relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption." The same article also permits measures "essential to the acquisition or distribution of products in general or local short supply; *Provided* that any such measures shall be consistent with the principle that all contracting parties are entitled to an equitable share of the international supply of such products . . ." These authorizations of export restrictions are subject to the requirement that such measures "are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or disguised restrictions on international trade . . ."

In this tangle of rules, exceptions to the rules, and exceptions to the exceptions to the rules, it is extremely difficult to discern any coherent guidelines for national policy. And, what is more to the point, all of these principles are effectively vitiated by a subsequent GATT article (XXI) which declares that nothing in the GATT shall be construed "to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests . . . taken in time of war or other emergency in international relations . . ."

It seems to me that a major U.S. objective in the forthcoming trade negotiations should be to incorporate some new and stronger rules in the GATT limiting the resort to export controls. At a minimum, the new rules should prohibit the use of export or other controls for political purposes. A country should not be permitted to cut off or threaten to cut off exports in order to change another country's policies (although exceptions would be granted to permit countries to restrict the export of weapons and national security information and also to restrict trade in the course of actual hostilities). The new rules should also seek to define more precisely the economic, conservation and other purposes for which exports can be limited and should place greater emphasis on the need to take account of the interests of others. Most important of all, since the rules on this complex subject will inevitably require interpretation in specific circumstances, new GATT procedures should be created requiring advance notice, consultation, authoritative interpretation of the rules and settlement of disputes by impartial conciliation and arbitration commissions under GATT auspices.

Where countries are found to have violated the new principles and fail to adjust their policies in accordance with multilateral decisions, they should face the possibility of multilateral reprisals. If this cannot be done through the GATT, it may have to be undertaken through the OECD or some other multilateral forum. In extreme situations, multilateral sanctions may even have to be applied to countries that are not GATT members, on the theory that their violation of broadly agreed community standards are gravely threatening community interests. If we can propose cutting off air service to countries that give refuge to hijackers, if we can contemplate denying port facilities to nations that pollute the oceans with their tankers, we should certainly explore the possibility of multilateral trade, aid and investment embargoes on nations that threaten the world economy by arbitrarily withholding vital raw materials.

None of the Arab oil producing countries is a party to GATT except for Kuwait and many of the sixteen African countries who made the declaration referred to earlier are also outside the GATT. However, a number of these Arab and African countries who are not GATT members (including Saudi Arabia) have committed themselves in bilateral treaties with us to refrain from the very measures of trade discrimination which they recently aimed in our direction. Moreover, all of these countries voted for U.N. Resolution 2625 of the 25th General Assembly, entitled "Declaration of Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations." In promulgating this resolution, the General Assembly declared that "the principles of the Charter which are embodied in this Declaration constitute basic principles of international law, and consequently appeals to all States to be guided by these principles in their international conduct and to develop their mutual relations on the basis of their strict observance."

One of the key principles of the Declaration is the following: "No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind."

It was the Afro-Asian group in the United Nations, including the Arab countries, that pressed hardest for the principle quoted above for the proposition that this principle was already part of international law. Of course, their motive was to prevent the United States and other industrialized countries from using economic power as an instrument of political pressure. It is interesting that not a single voice has been raised in the United Nations to cite this authoritative declaration of the General Assembly since the Arab oil embargo began.

In his speech to the General Assembly in September, Secretary of State Henry Kissinger announced the willingness of the United States to negotiate a new instrument on the "Economic Rights and Duties of States" as proposed by the Government of Mexico. The Department of State has hitherto been reluctant to raise the issue of access to resources in these negotiations because of our own use of export controls. We certainly cannot have it both ways. I believe we should offer to reform our practices in this area in return for reciprocal changes in the practices of others.

In implementing a new international economic policy of access to supplies we should seek to act multilaterally, not bilaterally, for at least three reasons. The first is that in most cases a threat of reprisals against raw material cut-offs will have little practical significance unless we have our OECD partners with us. The second is that unilateral U.S. action will look to others as a destructive act of nationalism unless it is related to multilateral rules and multilateral procedures. The third is that such an effort of "collective economic security" could degenerate into a North-South economic war unless it is based on principles that are acceptable to a substantial number of developed and developing countries.

I would hope that the Mondale amendments in their final form would specify that the President should exercise his authority to retaliate in conformity with GATT or multilateral agreements, once these have been renegotiated to deal adequately with supply access. Pending such renegotiation, the United States would reserve the right to retaliate without multilateral approval. It should be understood, however, that the President would use this authority only as a last resort, and in conjunction with other consuming countries wherever possible.

Obviously codes of conduct by themselves are not enough. On both sides of the great economic divide, there will need to be more enlightened perceptions of national interest. In recent years, the developed countries have manifestly failed to discharge the aid and trade obligations that were necessary to make a success of the Development Decade. Partly in response to this failure, partly out of a

misguided nationalism, many developing countries enlisted under the banner of "sovereignty over natural resources"—failing to see that developed countries also have "sovereignty" over their capital resources, their technology and their internal markets, and that some mutually agreed limitations of sovereignty are essential to give full possibilities to the sovereignty of all. Ironically, the greatest victims of the "sovereignty" that the OPEC countries exercised in quadrupling oil prices in 1973 were the developing countries themselves.

To sum up, I doubt that new rules and procedures assuring reasonable access to supplies can be negotiated except in a much broader context involving a fundamental restructuring of international economic relations between developed and developing countries. The developed countries are rightly concerned about secure access to raw materials at reasonable prices. But the developing countries are rightly concerned about other kinds of access—access to markets, to capital, to technology, to management skills, and to an adequate voice in decision-making in international economic forums. The challenge facing U.S. foreign economic policy in the next few years is to help fashion the "world order bargain" that will make access to resources a negotiable element in a new system of collective economic security that works in the interests of developed and developing countries.

OTHER FEATURES OF THE BILL

The trade bill could be strengthened by a number of other changes, the most important of which are suggested below:

1. Tariff authority

Section 101 gives the President authority to eliminate tariffs of 5% or less, to cut by 60% tariffs of from 5% to 25%, and to cut by 75% tariffs which are over 25%—provided that no rate over 25% is reduced below the level of 10%. I believe the national interest would be better served by replacing this formula with the zero-tariff authority contained in the original Administration bill. This would enable us to work more effectively for the objectives of the legislation set out in Section 2, particularly the goal of "open and non-discriminatory world trade." Zero-tariff authority is particularly important if we are to reduce the margin of discrimination against American trade by bargaining down the common external tariff of the enlarged European Community and the tariffs of other countries in association with it. As the President's Commission on International Trade and Investment Policy stated in its Report (p. 14):

"Our objective should be the progressive elimination of most tariffs over the next 10 years, and of all tariffs over the next 25 years. Progress toward this objective would gradually eliminate the discriminatory effects on the United States and other nonmember countries of the European Community and its preferential trading arrangements."

Even if the goal of tariff elimination proves impossible, it is still in our interest to reduce world tariff levels as far as possible. We have a comparative advantage in many products, such as agricultural produce and high technology manufactures, that are currently subject to a high rate of protection by other nations. If we are restricted in the concessions that we can make in other areas, we may not be able to achieve the necessary competitive opportunities for our export industries or reach the general level of reciprocity in overall reductions that is so essential to a successful trade negotiation. Trade negotiations are a two-way street; and if one partner will go only a certain distance, the other partner cannot be expected to go any further. We should not jeopardize the trade negotiations by limiting unduly the negotiating authority of our representatives.

If the Senate is not prepared to grant zero tariff authority in the form originally proposed by the Administration, a useful compromise would be the formula adopted in the Trade Expansion Act of 1962 authorizing the elimination of duties on products for which the Community and the United States account for 80% or more of world trade. That formula was of little use in the Kennedy Round when the U.K. failed to join the Community, but it could be extremely valuable now.

2. Non-tariff barrier authority

The otherwise excellent formula for negotiating on non-tariff barriers is flawed by the provisions for "sectoral equivalence" inserted by the House Ways and Means Committee. Section 102 states that a principal negotiating objective in the field of non-tariff barriers is to obtain, with respect to "each product sector of manufacturing" and with respect to the agricultural sector, "competitive opportunities" for U.S. exports to developed countries that are equivalent" to the competitive opportunities" afforded to these products in the U.S. In pursuit of this objective, the President is required to negotiate trade agreements "to the extent feasible" on a sector by sector basis and to indicate with respect to each trade agreement submitted to Congress the extent to which equivalent access in each sector has been achieved. Although these provisions do not appear in the section of the bill covering the President's tariff-cutting powers, the report of the Ways and Means Committee states (on page 19) that the objective of sectoral equivalence is also to be applied "to the extent feasible" in the tariff area as well.

I believe it would serve the national interest if these provisions for "sectoral equivalence" could be removed from the legislation or at least substantially modified. In the forty years since the trade agreements program was inaugurated, we have conducted our trade negotiations on the basis of overall reciprocity, permitting concessions in one product sector to be reciprocated by concessions in another, subject only to the requirement that there be a balance of advantage in the total package. Trade-offs between product sectors have been and will continue to be necessary for the achievement of substantial progress in the reduction of trade barriers—particularly non-tariff barriers—because in individual product sectors we and our trading partners differ in trading interests, productive efficiency, and the type of trade barriers we employ. It might conceivably be appropriate to require that the President seek reciprocity within the manufacturing sector as a whole in order to prevent excessive concessions here on behalf of our agricultural and service exports—although even this kind of requirement would need careful examination.

But requiring that equivalence must henceforth be achieved in thirty or forty product sectors—which is apparently the way the legislation is interpreted by the Ways and Means Committee and the Executive Branch—risks placing insuperable handicaps on our negotiators before the negotiations even begin. It would make it extremely difficult—perhaps impossible—to negotiate new rules in GATT on such non-tariff barriers as subsidies and government procurement, since the competitive effects of such new rules will inevitably differ from one product sector to another. In one product, we may gain somewhat greater than equivalent competitive opportunities from the new rules; for another product, somewhat less, depending on our comparative advantage or disadvantage in production.

It is significant that the idea of sectoral equivalence was carefully considered and firmly rejected by the President's Trade Commission in 1971. I believe the reasons given by the Commission's Report (p. 12) are as timely now as they were then:

"Reciprocity should be conceived in terms of the whole set of negotiations rather than as an objective to be achieved within self-contained compartments. . . . In some cases, of course, it may be possible to arrive at mutually advantageous solutions within specific industrial sectors, and efforts should be made to find such solutions. On the other hand, in many cases a country will have to give more than it gets in one sector or functional area, and recoup by securing an equivalent advantage in another."

If the Senate is not prepared to drop the sectoral equivalence provisions or to modify them substantially, I would recommend, as an absolute minimum, that Section 102(c) be amended to make it clear that its provisions are to be implemented only to the extent consistent with the overall objectives of the legislation laid down in Section 2.

3. GATT revision

Section 121(a) directs the President to take such action as may be necessary to bring trade agreements to which the U.S. is a party—primarily the GATT—into conformity with certain "principles." GATT urgently needs revision, and this Section would raise no problem if the "principles" subsequently enumerated were limited to broad statements of the kinds of rules sought to be achieved. Unfortunately, however, some of the numbered paragraphs appear to prejudge the question of what specific institutional means should be employed to improve the trade rules.

For example, Article 121(a)(1) requires "the revision of decision-making machinery in the GATT to more nearly reflect the balance of economic interest" and Section 121 (a)(3) requires "the extension of GATT articles to conditions of trade not presently covered in order to move toward more fair trade practices." Given the fact that GATT now has more than 80 members and follows the rule of one-nation one-vote, amendments of the GATT articles to achieve U.S. objectives in these areas are not likely to prove feasible. A more practical approach would be to negotiate a new Code of Trade Liberalization, supplementary to GATT and supportive of it, open to participation by those relatively few key trading nations economically capable of assuming the new responsibilities, as has been proposed by the Special Advisory Panel to the Trade Committee of the Atlantic Council under the chairmanship of Ambassador John Leddy. The GATT members accepting the Code (which would deal, among other things, with non-tariff barriers not now adequately covered in GATT) could then apply between themselves in its administration such new and more realistic decision-making arrangements as they would agree upon.

I would, therefore, recommend revising Section 121(a) along the following lines: "The President shall, as soon as practicable, take such action as may be necessary to strengthen the GATT and other trade agreements heretofore entered into to make them more effective instruments for the development of an open, nondiscriminatory and fair world economic system, including (but not limited to) . . ." The six numbered paragraphs that follow would then be reworded to eliminate specific references to the GATT articles individually or as a whole, leaving the President sufficient negotiating flexibility to accomplish the objectives laid down in the opening paragraph of Section 121(a) by whatever means proved most practicable.

4. Import relief under the "Escape Clause"

Title II of the bill is too permissive in allowing U.S. industries to resort to tariff and other forms of protection in the face of import competition. True, this part of the

bill does emphasize adjustment to import competition, provides more ample assistance for this purpose than ever before to workers and firms, and favors relief through tariffs and tariff quotas over quantitative limitations and orderly marketing agreements. But other innovations in the bill could substantially increase the number of successful applications for escape clause relief which will go from the Tariff Commission to the President.

For example, the existing requirement that imports be the "major" or principal cause of injury to a domestic industry is changed to a requirement that they be only a "substantial" cause—a cause defined as "important and not less than any other cause." Alongside the existing law's tight definition of "serious injury"—the significant idling of productive facilities, the inability to operate at a reasonable profit, significant unemployment, etc.—we have a new standard relating to a "threat" of serious injury on the basis of which relief can be granted. The "threat" can take the form of a decline in sales, a growing inventory, and a downward trend in production, profits and employment—obviously a much easier test to meet.

Those who believe in freer world trade might be reconciled to these new provisions if relief in the form of higher tariffs or other restrictions were clearly limited to a short time period. Unfortunately, the legislation provides for a five year period of protection renewable by an additional two years—with the opportunity to apply for yet another period of relief after a two year interval. If the concept of the legislation is to grant temporary protection to permit industries to become more competitive or to change into another line of production, one seven year period ought to be enough.

No less disturbing is the legislation's ambiguity on the key question of whether the more permissive standards for import relief are to constitute the exclusive mode of protecting domestic industries—or whether such industries will continue to have access to non-legislated methods such as the special international arrangements on textiles and steel. If we are going to set a new and easier standard by which industries are to get temporary relief from imports for the purpose of making competitive adjustment, I believe these standards should apply to everyone. At the very least the bill should provide that no new restrictions, "voluntary" or otherwise, should be imposed to take care of industries that are unable to satisfy the new standard, and existing special arrangements that are not embodied in multilateral agreements under the GATT should be rapidly phased out. This would mean phasing out the steel agreement but not the multilateral textile agreement.

The American people are justifiably fed up with a double standard of law and justice—one standard for the rich and powerful and another for the rest of us. One place to start rectifying the double standard is in this new trade bill.

Some loosening of the current escape clause provisions is obviously necessary as the price for passing a trade bill, but I fear the loosening in the House version has gone too far. The new provisions would mean many more recommendations for trade restrictions by the Tariff Commission—and much more political pressure on the President under the escape clause than he has faced in recent years. I hope the Senate will tighten up the escape clause both with respect to the criteria of causality and injury and with respect to the other matters mentioned above. And it is absolutely essential to retain the discretion the President has under existing law and in the proposed legislation to deny the application of an industry for new trade restrictions in the light of broader national and international considerations.

5. Countervailing duties

There is no valid national interest in countervailing against foreign subsidies which neither cause injury to an American industry nor prevent one from being established. Other countries recognize this fact and require that injury be shown before countervailing duties are imposed. The prevailing practice in this regard is embodied in Article VI of GATT, which requires "material injury" as a prerequisite to the imposition of countervailing duties. Yet the United States continues to apply a countervailing duty law that has no injury requirement, taking advantage of the "grandfather clause" of GATT permitting contracting parties to maintain pre-1947 legislation inconsistent with the GATT rules.

I would favor amendments to Section 331 of the bill bringing us into line with GATT standards by requiring proof of "material injury" before countervailing duties are applied. On the other hand, I can understand the argument that in order to maximize our negotiating leverage, we should postpone such a change in our legislation pending the negotiation of new rules on subsidies that are consistent with our national interests. But if we are to follow that negotiating strategy, we should certainly provide the Secretary of the Treasury with the temporary discretionary authority included on page 123 of the bill not to impose countervailing duties which would jeopardize the satisfactory completion of the trade negotiations. The provision beginning on the bottom of that page requiring the mandatory application of countervailing duties with respect to articles produced by a government-owned subsidized facility in a developed country could complicate our negotiating problems and should be removed.

6. Preferences for developing countries

Title V of the legislation constitutes an important step forward by recognizing the important national interest of the United States in assisting the developing countries to increase their export earnings and thus accelerate their economic development. However, tariff preferences are not available with respect to articles that are subject to "escape clause" actions under old or new legislation, nor will they have much value with respect to articles subject to "voluntary" or other forms of quantitative restrictions. This underlines the importance of tightening up our policies for "import relief" along the lines outlined earlier. We should not be in the position of taking back from the developing countries with one hand what we are giving with the other. In the long run, we should be moving with our developed trading partners toward a system of one-way free trade on behalf of the developing countries.

I would also recommend deleting paragraph (c)(1) of Section 504, which makes preferential treatment unavailable for the product of a beneficiary developing country when that country supplies more than $25 million of that product during a calendar year. It is inconsistent with the purposes of tariff preferences to limit the trade benefits so severely.

On the other hand, I support the provision in Section 504(c)(2) withholding preferential treatment from the product of a developing country when that country secures more than 50 percent of U.S. imports of that product in a calendar year. The 50% limitation serves a useful purpose in preventing a few relatively advanced developing countries from gaining most of the benefits of tariff preferences at the expense of all the others.

THE BEST OF BOTH

Mr. McINTYRE. Mr. President, in the last decade we have become increasingly aware of the delicate balance which exists between man and environment and how we must, in order to maintain this balance, respect the laws of the environment. Sadly, man's desires often run contrary to these laws, and so he is confronted with the dilemma of attempting to maintain his environment while at the same time trying to satisfy perfect legitimate desires.

In New Hampshire, a State of great natural beauty and equally great tourist and industrial potential, we are often beset with such problems. In at least one such instance, however, New Hampshire citizens have overcome such a dilemma. Combining forces, conservationists and developers worked together to build an esthetically pleasing and commercially sound ski resort on Rosebrook Mountain. In doing so, the White Mountain Development Co. and the Soil Conservation Service struck the most desirable and elusive balance between man and his environment; they satisfied the needs of man but not at the expense of the environment. Though the region was altered, it was not harmed.

As a record of their achievements, I ask unanimous consent that the article "No Scars on the Lansdcape," by Calvin Perkins, which first appeared in the January issue of Soil Conservation be printed in the RECORD.

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

NO SCARS ON THE LANDSCAPE

(By Calvin J. Perkins)

Two winters ago I was driving east on U.S. Route 302 near Carroll, New Hampshire, and saw trees on the steep slopes of Rosebrook Mountain being cut and large piles of brush being burned. Work had started on the area's new ski development.

My thoughts quickly turned to beautiful snow-covered Mount Washington to my left and the ice-laden Ammonoosuc River that flows peacefully along the base of Rosebrook Mountain to my right. Was this to be a haphazard development that would interrupt the picturesque views of the White Mountains and contaminate the clean water of this mountain stream?

No. It wasn't. Early into those winter months a representative of the Mount Washington Development Company contacted leaders of the North County Resource Conservation and Development Project. He was looking for technical assistance in planning and applying conservation practices in the ski development area to reduce erosion and sediment and protect the natural environment.

That contact resulted in a meeting of SCS people with planners, engineers, contractors, and others associated with the new ski complex. And it was the beginning of a successful effort to incorporate conservation concepts into the ski development.

The Soil Conservation Service, through the Coos County and Grafton County Conservation Districts, provided soil survey data on 2,500 acres. Soil data are basic to planning, and these data were used in planning the ski development, including 100 acres of cleared ski trails and sites for lift lines, underground snowmaking equipment, maintenance buildings, a lodge, condominiums, access roads, parking lots, and other related facilities.

The soil information included interpretative maps depicting various land use limitations.

Construction was halted late in winter because of the heavy snow accumulation. Fortunately, snowmelt the next spring did not cause excessive erosion. As soon as the land was dry enough for construction activity, the work was renewed.

SCS suggested improved methods of erosion control during construction. These were quickly adopted. They included two large sediment basins at the base of the mountain to settle out loose sediment and prevent it from entering the Ammonoosuc River. All of the small streams and surface water channels within the construction area were directed into two major drainageways that flowed into and through these sediment basins.

Culverts up to 6 feet in diameter were used to conduct water safely under access roads and across critical points on the ski slopes. Each culvert had stone headwalls at each end to prevent erosion and to provide a rustic appearance in keeping with the setting.

Temporary diversions were roughed in across the ski slopes after stumps and boulders were removed and were kept free of debris at all times. These were spaced about 50 feet apart on slopes greater than 35 percent and not more than 200 feet apart on slopes of less than 35 percent.

These diversions broke long slopes into short ones, reduced the potential for erosion, and took the excess water off the area in an orderly manner.

During the final grading, which began at the top of the slopes, workers seeded, fertilized, and mulched as they moved downslope, never leaving more than 500 feet without proper cover or exposed to erosion.

Permanent diversions were installed where necessary on a grade of 1 percent or less. Each of these diversions was constructed to outlet into wooded space between trails and lift lines where a natural surface water channel carried the water safely downhill without erosion and into the sediment basins.

As access roads were constructed, surface-water ditches were also constructed; all cut and fill slopes were seeded and mulched immediately after construction.

With all of this construction activity, one could almost visualize a scarred landscape. But there is none. Engineers designed the ski trails so that they are not visible from the highway from either direction of approach until the viewer is directly opposite the ski development.

The Mount Washington Development Company has demonstrated that when conservation practices are included in development plans, the adverse effects on the area and its environment are minimal.

The White Mountains have retained their magnificent splendor, and the Ammonoosuc River continues along its path unaware of man's activity nearby.

THE DEATH OF ARTHUR KROCK

Mr. THURMOND. Mr. President, one of the Nation's foremost journalists, Arthur Krock, died April 12, 1974, at the age of 86, after a distinguished career which dated from the early years of the 20th century.

The expertise of his pen was widely known and respected as he wrote with depth and fairness of our Nation's leading figures and events. Government and public affairs were his field, and he made outstanding contributions to the understanding of our national activities in these areas—and America was improved.

Mr. Krock established his greatest reputation as the Washington correspondent of the New York Times. He wrote about Presidents from Theodore Roosevelt to Richard Nixon and his journalistic career went back even farther. During his years devoted to a probing and perceptive view of our Government and its political system, he won four Pulitzer awards. It was an indication of the eminence of his work.

The column entitled "In the Nation," which Mr. Krock wrote for many years, was a model of analytical objectivity in journalism. It focused on the myriad of problems and personalities which were part of our national life. His standards of professionalism and his technique of presentation could well be emulated by many people today whose business is news.

Mr. President, when Arthur Krock died there were numerous articles written about him in the newspapers of the Nation. I ask unanimous consent that one such article from the New York Times news service be printed in the RECORD, entitled "Arthur Krock, Noted Reporter, Editor and Columnist, Dies at 86," and published in the Washington Star-News, Washington, D.C., on April 13, 1974.

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

ARTHUR KROCK, NOTED REPORTER, EDITOR AND COLUMNIST, DIES AT 86

Arthur Krock, one of the great figures of American journalism, died last night. He was 86.

Death of natural causes came at 10:20 p.m. in his home on Connecticut Avenue. He had been in ill health for nearly six months.

He leaves a widow, the former Martha Granger Blair, a son, Thomas P. Krock of Dallas, and two stepsons, William Granger Blair, an executive of the New York Times and the newspaper's broadcast correspondent, and Robert H. Blair of Corpus Christie, Tex.

Funeral services will be private.

The death of Mr. Krock ended one of the longest and most distinguished careers in American journalism. His 60 years as a reporter, editor and columnist spanned whole eras—from the magic lantern to color television, from the Wright brothers to supersonic jets and space flights, from William Jennings Bryan to Richard Milhous Nixon.

But Arthur Krock's fame as a newspaperman was based far more on talent than durability. He was the only man selected four times for a Pulitzer award—two prizes, a special commendation and a special citation.

So great was his knowledge of politics and government that presidents sought his advice and, possibly in return, granted him exclusive interviews.

During his 34 years in the Washington Bureau of the New York Times—more than 20 of them as the Washington correspondent—Mr. Krock became noted for exclusive front-page stories that he developed and wrote and a column he created.

The lucid analyses in "In the Nation," his signed editorial-page column from 1933 until his retirement in 1966, both intimidated and edified Washington officialdom and informed Times readers the world over.

Mr. Krock believed that "every man should take his job seriously, but himself, never." When Mr. Krock nearing retirement, a new teletype operator, on seeing the many insertions and corrections Krock had penciled into his copy, remarked that "this guy must write his stuff in longhand and correct it on the typewriter." Mr. Krock laughed about it for weeks.

There was humor, too, in Mr. Krock's articles and his style employed the rapier thrust of understatement by which more than a few public officials found themselves dehided.

He once wrote of Harry L. Hopkins, President Roosevelt's confidant, that he "may, at times, have thought that something the president said or did was not perfect. If so, he suppressed the unworthy thought with ease."

Mr. Krock's first Pulitzer Prize came in 1935 for the "General Excellence" of his Washington coverage during the beginning of the New Deal.

Then, in 1937, Roosevelt granted Mr. Krock an exclusive interview. Other members of the press fumed over the exclusive interview. At his next news conference, Roosevelt apologized and promised never to do it again. He didn't, but to Mr. Krock the interview brought his second Pulitzer Prize.

In 1950, the Times published a similarly exclusive interview with President Harry S. Truman, and a majority of the Pulitzer awards board nominated Mr. Krock for a third prize.

At the suggestion of Mr. Krock, then a member of the Pulitzer advisory board, the third prize was withheld to avoid charges of favoritism. However, his interview was cited as "the outstanding instance of national reporting in 1950," and the board made no other award in that category for the year.

His fourth Pulitzer award came in 1955, when he received a special citation for distinguished correspondence from Washington.

In his news dispatches and columns, Mr. Krock covered many fields, including foreign policy. But he always returned to his first love—politics. He wrote the "lead" story in the Times of every biennial election from 1932 to 1952.

Mr. Krock got his first taste of national political reporting when he helped cover the 1908 conventions of both major parties for the Louisville (Ky.) Herald.

The previous year he had gotten his first newspaper job as a general assignment reporter on the Herald. He had returned to his native state after half a year at Princeton University and two years at Chicago's Lewis Institute, where he earned an associate of arts degree in 1906.

Mr. Krock was editor in chief of the Louisville Times from 1919 to 1923. But it was as editorial manager that he had covered the Versailles Peace Conference. He was one of three correspondents who prevailed on the principals to open up their general sessions for press coverage.

Before leaving for Paris, Mr. Krock had arranged for the sale of the Courier-Journal and the Times to Judge Robert W. Bingham of Louisville, who was later U.S. Ambassador to the Court of St. James's.

Upon Mr. Krock's return to Louisville, he and Bingham argued over editorial policy, and Mr. Krock left the Louisville papers for New York. There he accepted an interim post in public relations as assistant to Will Hays, head of the Motion Picture Producers and Distributors of America.

At the invitation of Adolph S. Ochs, then publisher of the New York Times, Mr. Krock came to the newspaper on May 1 1927, to write editorials and to establish across the nation a network of correspondents for the Sunday paper.

When Richard V. Oulahan, the Time's Washington correspondent, died in 1931, Krock was named as his successor, beginning in January 1932.

In 1967, he received the John Peter Zenger Award "for distinguished service in support of freedom of the press" from the University of Arizona.

Mr. Krock was married twice. His first wife, the former Marguerite Polleys, daughter of a Minneapolis railroad official, died in 1938.

They had been married 27 years and had a son, Thomas Polleys Krock, now of Dallas.

Mr. Krock met his second wife frequently on the capital's cocktail and dinner circuit when Mrs. Blair was writing a society column for the Washington Times-Herald.

In February 1939, Mrs. Blair did a short pen portrait of Mr. Krock, placing him among Washington's "glamour boys." Six months after the column appeared they were wed. Mrs. Blair had two children by her previous marriage.

In his last years Mr. Krock continued to go each day to his office in the Times bureau, where he worked on a succession of books. Soon after his retirement, he published a selection of his columns, "In the Nation, 1932–1966."

In 1968 Mr. Krock wrote "Memoirs: 60 Years on the Firing Line," which made the best-seller list for more than six months. His memoirs were followed by "The Consent of the Governed and other Deceits" in 1971. And in the final year of his life he turned back to his youth and wrote "Myself When Young: Growing Up in 1890's."

HUD AND INDIAN HOUSING

Mr. ABOUREZK. Mr. President, the U.S. Senate can be proud of its record on behalf of decent housing for the Indian people.

The Omnibus Housing Act passed recently by the Senate contains a landmark in the effort to provide that decent housing. It earmarks funding for 7,500 units annually of Indian low-rent housing and contains two further provisions to make that program workable in Indian communities, most of which are extremely poor—one specifies that the turnkey or conventional programs must be used—instead of the leasing, which would not work on reservations; the other requires that HUD include sufficient funding in its contracts to make Indian projects feasible.

I am uncertain as to whether the House Subcommittee on Housing has acted on these proposals, but I am hopeful that they will find some way to assure a continuing, workable, and realistic program in our Indian communities.

Once we get the legislation passed, of course, the battle is only half-won. The buck passes to OMB and HUD.

On the basis of some news articles which appeared recently in the Albuquerque press, though, HUD's real commitment to work with Indians—aside from its rhetoric—remains an open question.

Mr. President, I ask unanimous consent that a few news articles on this point be printed in the RECORD.

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

[From the Albuquerque (N. Mex.) Tribune, Apr. 16, 1974]

WASHINGTON "TOO BUSY" FOR TRIBAL LEADERS

(By Gene Goldenberg)

WASHINGTON.—When the 1974 "Maid of Cotton" wanted to see President Nixon recently, an appointment was arranged in less than 24 hours.

And when Mrs. Corinne Okum of Cincinnati showed up in town with a 14,000-signature petition supporting the President, she too received a quick escort into the Oval Office.

But when tribal leaders representing more than 250,000 American Indians sought a meeting with just about anyone important in the Nixon administration, they received a frigidly cold shoulder.

Unlike the "Maid of Cotton" and Mrs. Okum, the Indians wanted something concrete from the administration—assurances that Indian needs would be considered in new federal housing programs.

And such selfish motives apparently were sufficient to sweep the welcome mat right off the front steps.

Housing and Urban Development (HUD) Secretary James Lynn not only refused to meet with the 165 Indian housing executives gathered here for a national conference, but failed even to respond to their invitation.

And taking their cue from Lynn, every under secretary, deputy under secretary, assistant secretary or deputy assistant secretary at HUD found more important things to do during the two days the tribal leaders were here.

What the Indians were left with was a reluctant HUD underling who holds the impressive title of "Indian coordinator" in HUD's Office of Equal Opportunity Compliance.

And true to the finest traditions of bureaucratic independence, even this gentleman protested that he was attending the Indian Housing Conference only as an "observer." He had to get approval from above before he would address the session as an "official" HUD representative.

Such treatment from HUD did not surprise the Indian housing officials, who have been trying unsuccessfully for several months now to arrange a meeting with Lynn or one of his top aides.

"The HUD people have nothing to offer us, so they don't want to see us," explained one tribal housing executive.

Indian leaders are most upset over the Nixon administration's failure to provide any special reservation housing programs in the new fiscal 1975 budget.

Instead, HUD is asking that Indian housing be included under the proposed Section 23 subsidized public housing program now under congressional consideration as part of the 1974 Omnibus Housing Act.

This program, argue Indian housing authorities and their sympathetic supporters in the federal government, would not meet reservation needs because it requires that private developers construct the housing in return for certain federal subsidies on the portion of the units devoted to public housing.

The tribal leaders point out that developers and bankers are reluctant to sink money into reservation housing because such projects inevitably become entangled in red tape and title problems associated with Indian lands.

And as more than one Indian official is quick to point out, the states have now begun trying to tax leasehold interests on Indian reservations—a discouraging factor for prospective housing developers.

"Section 23 leased housing would be a disaster on Indian reservations," commented Ronald Peake, the man in charge of housing programs at the Bureau of Indian Affairs (BIA).

Unfortunately for the Indians, however, BIA does not administer the government's housing programs for Indians, but instead works in an advisory role to HUD.

Despite Peake's personal opposition to the proposed Section 23 program, BIA Commissioner Morris Thompson has remained mysteriously quiet on the subject.

In fact, BIA has so far failed to take an official position on the Section 23 controversy.

Further infuriating the Indian leaders is the bureaucratic mismanagement of HUD in putting together a long-promised manual for Indian housing programs.

After more than a year on the drawing boards, the comprehensive guidebook is finally ready for review by tribal leaders—a subject to be taken up at a meeting in Albuquerque Wednesday.

To the consternation and chagrin of tribal officials, however, the new manual covers only the existing mutual help housing and other soon-to-be-phased-out programs and contains not a word on how Section 23 will be applied on the reservations.

"That's like sending someone out to fix a 1974 model car and giving him the owner's manual for the 1951 model," quipped one bitter tribal leader.

The major hope for Indian housing right now is an amendment sponsored by Sens. Joseph Montoya, D-N.M., and Pete Domenici, R-N.M., which was added to the Senate version of the Omnibus Housing Act.

This plan would earmark $15 million a year for two years to insure continuation of current reservation housing programs.

House leaders have so far been reluctant to adopt a similar approach, but a spirited lobbying effort by the tribal officials here last week may have changed this attitude.

HUD OFFICIALS, INDIAN LEADERS CLASH

(By Charles Wood)

Federal officials and Indian leaders clashed verbally in Aubuquerque yesterday over alleged government inaction in reservation housing programs.

The clash occurred at a meeting of federal and Indian housing leaders at the Airport Marina Hotel.

The incident was sparked by statistics from the U.S. Department of Housing and Urban Development (HUD) that showed funds for 4,900 reservation housing units would not be available until July 1.

"It's about time HUD started re-evaluating its Indian priority—if they have one," said Roland Chico, regional director of the Housing Assistance Council.

"HUD made a commitment to build these units about three and a half years ago," he said. "Why is it taking so long?"

"It is still a priority commitment," replied Philip Salimine, representing HUD's Housing Production division in Washington, D.C.

Another federal official, James Mullin, said he felt the delays were not the fault of HUD, but were caused by the White House's freeze on housing funds two years ago.

The purpose of the meeting was to discuss a proposed manual setting guidelines for the allocation and operation of reservation housing units.

But most Indian leaders expressed disappointment with the gathering, which drew about 45 persons.

Mr. Chico called the meeting "the same old merry merry-go-round.

"We've asked a lot of these questions before that we're asking today," he said.

Pat Chee Miller, Navajo Housing Authority chairman, called the meeting "poorly organized."

"Whoever is moderating the meeting simply jots down the things HUD wants to hear instead of the adverse comments," Mr. Miller said.

He also said he was disappointed that only 12 tribal housing authorities were invited to the meeting "even though 110 tribes will be subject to the proposed manual."

Ronald Froman, interim chairman of the National American Indian Housing Council, said he also was "kind of disappointed" with the meeting.

"HUD is not advocating the proposals we need to meet many of our needs," said Mr. Froman, a Creek Indian from Okmugee, Okla.

The meeting is sponsored by HUD and the National Association of Housing and Re-

development Council. The conference is scheduled to continue through Friday morning.

Highlighting the conference was a talk today by Joseph Burstein, assistant general counsel for Pueblo Housing.

INDIAN HOUSING EQUITY TOPIC

A federal official Thursday said the U.S. government is not trying to build reserves in equity payment accounts in its Indian housing programs.

The official, Joseph Burstein, assistant general counsel for Pueblo Housing, made his comments at a meeting at the Airport Marina Hotel.

"The equity payment account is not a reserve," Mr. Burstein told the gathering.

He said when the account becomes larger than federal officials feel it should be, the excess money is used to retire the debt on the housing.

An equity payment is a payment made towards the value of an asset over and above debts outstanding against it.

The purpose of the meeting is to discuss a proposed manual setting guidelines for the allocation and operation of Indian housing units.

About 30 people attended today's gathering, almost all of them federal officials and Indian housing leaders.

The three-day meeting is scheduled to end Friday.

PROBLEMS AIRED IN INDIAN HOUSING

(By Carol Cohea)

Indian Housing Authorities agreed current federal urban housing programs are not the answer for Indian reservations and a change to a viable program is necessary.

The statements were made by the Indian Housing Authorities meeting with Dept. of Housing and Urban Development (HUD) officials in Albuquerque to review a draft handbook for construction and processing of Indian housing.

The meeting will run through Friday at the Airport Marina Hotel.

The long-awaited handbook covers procedures for Mutual Help Home Ownership Program and Turnkey III housing.

"We're pushing to get this into effect so HUD can show the administration that there is a viable program, for Indian housing on reservations," said Jim Womack, head of the All Indian Pueblo Housing Authority out of Albuquerque.

He said the program would hopefully allow the balance of some 30,000 units promised by the government to be built under the programs. Both programs allow for eventual ownership by the buyer of the home through monthly payments based on income.

"We hope the balance of the houses—an estimated 4900—will be changed to Mutual Help," otherwise they will be built under urban lease housing programs which we have said we won't accept," Womack explained.

"Unless there is new authorization for conventional public housing, we won't be able to build Mutual Help Housing," said Ron Froman, newly-elected and temporary chairman of the National American Indian Housing Council.

Executive director of Papago Housing Authority Hilda Garcia cited slowness of application processing as one of her problems with HUD responsiveness to Indian housing. She explained that currently any documents involving housing requests must be sent first to Los Angeles then to the regional office at San Francisco and then to the central office in Washington, D.C. "Then everything has to come back down the line," she said.

She said the Papago Authority currently has 102 housing units in management, 80 to be completed, another 174 in the works and over 300 applications.

In another instance, Roger L. Shourds, chairman of the Northern Plains Indians Housing Authority Assn., representing seven tribes in Montana and one in Wyoming, said he has 4000 applications for housing.

"We currently have 1500 under management, and 335 under construction," Shourds said, noting that his authority represents 35,000 Indians.

"We're hoping for the first time HUD will listen to Indians on something that will involve Indians. So far all the programs were drawn up by non-Indians in Washington for Indians," Shourds said.

When one HUD official was asked if the meeting here to review the proposed handbook was an attempt to be more responsive to Indian needs, he said, "I do view it as an attempt to be more responsive to Indian Housing Authorities. We're trying to receive advice and consultation on the program."

STOP THE ECONOMIC STABILIZATION PROGRAM

Mr. PACKWOOD. Mr. President, as we approach April 30, we get closer to the end of the frightful tunnel that has constricted this Nation's economy to the point of near strangulation in several cases. At midnight on that day, the Economic Stabilization Act will expire.

I supported the move in the Banking Committee last month to shelve pending wage and price control legislation. I did so for the simple reason that to continue this benighted experiment in central economic control would be absurd and fly in the face of the evidence that is before us. It is clear to those of us who have studied this program's impact closely that it no longer has a role to play in America. To continue any form of wage and price controls akin to the Economic Stabilization Act would be folly.

And yet, there are voices calling for the maintenance of "some form" of control authority. Others argue the need for a monitoring agency. To the former, I reply face reality. To the latter, I ask what point is to be served by the erection of yet another Federal agency to sift economic data and publish reports. Surely somewhere in our vast Federal bureaucracy there exist just a few people who are quite capable of massaging such data and publishing such reports. We do not need another group of statisticians squandering the taxpayers' money.

Lest there be any remaining among us who would respond favorably to the siren song that tantalizingly urges us to keep the program for just a little while longer. I urge them to read the analysis prepared by the economics staff of the First National City Bank of New York. This article, "Price Controls: A Case for Retiring the Regulators" is an excellent summary of the compelling need for allowing the law to expire on April 30 without further ado.

I ask unanimous consent that this article be printed in the RECORD.

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

PRICE CONTROLS: A CASE FOR RETIRING THE REGULATORS

The issue is familiar, but the protagonists—like teams in college debating contests—have switched sides. At least that's the impression as Congress and the Administration joust over the future of price-and-wage controls. The Administration in the past proclaimed its abhorrence of such regulations. But now it champions legislation that would allow the federal government to keep a foot in the controls door for some time to come. Only a year ago, there was considerable sentiment in Congress for stricter, more formal price-and-wage controls. Now Congress seems disposed to scrap them by allowing the Economic Stabilization Act to expire as scheduled on April 30.

At this juncture, it looks as if Congress will refuse to heed the arguments advanced by John Dunlop, director of the Cost of Living Council, and controls will lapse. But this won't settle the issue, for Congress could be persuaded to reexamine the question at a later time. So it is useful to examine the positions of the two parties.

Both agree that the controls the nation has lived under since August 1971 haven't been very effective in repressing inflation. Moreover, they have imposed costs in terms of dislocations and distortions in return for any impact they may have had on the price indexes.

POOR SHOWING

The record is well documented in material prepared by the Cost of Living Council staff. Reviewing the year 1973, the council frankly concludes that controls were of little use in checking price rises. Approximately two-thirds of the inflation in the period was attributed to food and energy despite the fact that these areas were under more strict controls than those applied in Phase II. The experience prompted Mr. Dunlop to declare that the record "renders ludicrous" the view that inflation could have been curbed if only the stick had been taken from the closet more frequently or if the rules were made more stringent. His conclusion was that price-and-wage controls "may" have a "small and incremental" effect on inflation "for short periods" but "tend to run down" and can have adverse effects on output and collective bargaining.

Few argue that controls were more effective than the council admits. Conclusions from econometric studies of 1973 range from a verdict of no impact at all to the conclusion that both wages and prices rose by roughly 1 percentage point less than they would have in the absence of controls.

The council also acknowledges that the program had produced some distortions. By freezing domestic copper and copper scrap prices below levels in world markets in mid-1973, the program contributed to a surge in exports of these materials. Placing a ceiling on beef prices the same year caused beef producers to withhold animals from the market. Profit-margin rules led to a shift from the production of lightweight papers, where margins were very low, to heavier weight papers. A greater number of sheets of paper would have been available to meet the strong demand, however, if more lightweight papers had been produced. And others can cite additional examples.

HANGING ON TO THE REINS

On the basis of the council's assessment and the dissatisfaction perceived to be growing in business, labor and the public at large, Mr. Dunlop urged Congress to allow the Administration to continue its policy of gradual decontrol. But the director's subsequent recommendations make it clear the decontrol he has in mind pertains more to the Phase IV form of controls than to the substance of direct government intervention in private price-and-wage decisions.

The Administration wants to retain controls on hospital charges and doctors' fees and perhaps the construction industry as well. Moreover, removal of Phase IV controls in many cases has been linked to a com-

mitment to limit price or margin increases in the future. Such commitments are simply price controls under another guise. And the Administration has recommended that the Cost of Living Council be perpetuated so it could monitor decontrol commitments.

The council's work wouldn't be limited to such monitoring, however. The Administration envisions a wider role for the agency, including working with labor and management in sectors judged to be having special problems with the goal of restraining price increases. The council would, in addition, review the demand and supply outlook in various sectors and work with appropriate industry groups and government agencies to hold down prices in those sectors.

These are vague phrases, to be sure, and just what they would entail in practice is not at all clear. But they strongly imply continued action by government to restrain prices through active intervention on an industry-by-industry basis. This impression is reinforced by the recommendation that the Cost of Living Council not only be given the authority to require reports on prices, wages, imports and exports but also to compel attendance at public hearings to explain price-and-wage decisions. And this in turn would be simply a new form of direct controls, albeit not as formal and probably not as costly as the various types inflicted on the nation since the freeze of August 1971.

WHY HOLD ON?

The Administration's motives have naturally been the subject of speculation. Some believe the recommendations were shaped largely to appease those congressmen who might be expected to press for a retention of tight controls over prices and wages. But if that's the case, the Administration failed to appreciate how much support for controls has waned.

It is also suggested that the Administration was motivated by fears of a post-controls surge in prices and would like to cushion the shock by enforcing decontrol commitments, and by maintaining an active presence generally. Congress is understandably less anxious to soften the post-controls bulge and more concerned about inequities to the relative handful of groups whose prices or wages would be held down.

There may be a third motive as well. Poor as the record under controls has been, the idea that government intervention in specific private price-and-wage decisions is helpful in slowing inflation lingers on within the Administration. Mr. Dunlop and others are persuaded that insinuating a government representative in labor-management negotiations will improve the chances of securing less inflationary settlements. And they apparently believe that an active government presence will improve business planning so that fewer bottlenecks arise and capacity expands more rapidly in certain areas.

But Congress is rightly concerned that any results the proposed system might achieve would be outweighed by the inequities and distortions that would be perpetuated or created. There is little evidence to suggest that government participation in labor-management decisions can bring about a measurable improvement for all parties concerned—business, labor and the public—over what would otherwise have been obtained. On the other hand, by the council's admission, in the recent past government attempts to control price-and-wage decisions for the purpose of reducing inflation have aggravated rather than alleviated supply shortages in certain cases.

Moreover, the idea that government intervention in individual price-and-wage decisions can contribute significantly to reducing inflation on a continuing basis rests on a misconception about the nature of the inflationary process. Even if it is true that the price level in some industries could be reduced if conditions in those markets more closely approximated the textbook model of competitive markets, it does not follow that prices in those industries will rise more rapidly than prices in others. The council's records indicate that there is no correlation between the degree of concentration in an industry—the shares of the market accounted for by the three or four largest firms—and the speed with which that industry's prices rose.

THE NATURE OF INFLATION

Inflation basically has little to do with the structure of private markets, which change only slowly. Rather, it depends on the relation between two growing aggregates, the level of monetary demand and the level of physical supply. When money demand grows faster than real output, the price level ultimately rises.

To cool inflation, government must either speed up output or slow the increase in monetary demand. Accelerating real growth, toward whch some of the proposals outlined by Mr. Dunlop point, is an intriguing solution but one that has little chance of success when the inflation rate is high. The more effective course is to slow the growth of monetary demand. And it isn't necessary for federal authorities to intervene in individual price-and-wage decisions to perform this task. They already have ample power in the form of authority to direct monetary policy and determine the shape of the budget. Congress has, therefore, swung over to the winning side of the debate by resisting the extension of controls. Federal efforts would be better focused on guiding monetary and fiscal policies back to noninflationary paths.

OPPORTUNITIES, OBSTACLES FOR FARMING

Mr. MOSS. Mr. President, on Friday last in Salt Lake City, Utah, the Senate Committee on Agriculture held a public hearing in conjunction with the Conference of Western and Midwestern Governors. The senior Senator from South Dakota (Mr. McGOVERN) conducted the hearing. His opening remarks should be read by all. The thoughtful and balanced discussion which the Senator presented to the large gathering of agriculture experts from the Western States reminds us of our need to concern ourselves with this great national resource.

I ask unanimous consent that the remarks of Senator McGOVERN be printed in the RECORD.

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

OPENING REMARKS OF SENATOR GEORGE MCGOVERN

We meet at a turbulent time for western agriculture.

Two months ago, the average U.S. price of wheat reached 148 per cent of parity.

Some U.S. grain stocks have been depleted to nearly all-time low levels. The financial squeeze on livestock producers is driving some near the point of bankruptcy.

Farm production costs have moved relentlessly higher.

In this context we know that steadily increasing population is a fact of life. It is the strongest factor in rapidly increasing demand for food. A close second is the continuing growth in income in many countries, especially in Western Europe and Japan. And that trend multiplies the demand for food by allowing people to fulfill their preference for higher quality products—livestock products, fruits and vegetables—all important commodities in the western States.

Inexorably, we are moving from the age of abundance to the age of scarcity. Now, as we once learned to share our abundance, we are obliged to allocate the shortages.

So, we have no time to lose in developing more prudent uses of our land, water, minerals and other resources which sustain human life.

Beyond that, we must find better ways to plan and cooperate with other nations of the world. For American agriculture today operates in a world food economy. We can capitalize on opportunities around the globe or we can retreat into protectionism. In my view, and the view of this Committee, there is no turning back.

American agriculture influences, and is influenced by, the rest of the world. One of every four acres in the U.S. is devoted to production for export. Farmers in these western States have an even greater stake in world trade—70 per cent of western wheat, rice and cotton is exported, and substantial percentages of your fruits and nuts are sold abroad.

Yet, despite those opportunities, our agricultural producers are facing a whole new set of challenges—shortages of fuel, fertilizer, baling wire, binder twine, and spare parts—cost increases which hit 19 per cent last year, and will jump at least 14 per cent more this year.

And there is increasing anxiety that prices may fall disastrously within a year or two. Already, livestock prices have collapsed—some cattle feeders are losing up to $200 a head.

Difficult as our problems may be, they are minor compared with those of the less developed countries. The past year's increases in petroleum and fertilizer prices may cost the oil-short, developing countries an additional $15 billion. The shortage of fertilizer in India alone may reduce grain production by 5 million tons this year—sending India into the world grain market for at least 2 million tons of grain annually for the next five years.

If the western Governors had called this meeting two years ago, we would have been dealing with massive surpluses and low prices. We would have been concerned with programs to restrict production.

Two years ago we had little difficulty meeting the urgent needs of peoples unable to produce or buy enough food to subsist.

But today, we are urging all-out food production. The Soviet Union and China accounted for perhaps half of the sharp increases in grain, cotton and soybean exports in the past two years. Sharply increased foreign demand exhausted our soybean stocks last year and depleted our wheat reserves this year.

Stocks of food and feed grains were drawn down to the point that Food for Peace shipments have been all but eliminated. In a sense, Food and Peace has been subverted into Food for War—the bulk of remaining shipments is now in the form of relief to Laos, South Vietnam and Cambodia.

Our challenge, as responsible officials of State and Federal governments and as people concerned with humanity, is to develop food and agricultural policies which will meet the following goals:

1. Provide a fair return for the investment and labor of the farm families of this nation.

2. Assure production of goods and fiber to meet domestic needs, an expanding export market, and our share of the needs of hungry countries which do not have the wealth to buy all they need.

The Agriculture and Consumer Protection Act of 1973 makes a good start in those directions. But the cost of everything the farmers buy has gone up so sharply since our bill was written a year ago that we need substantial updating of both target prices and loan levels.

Farmers are planting crops this morning with no assurance of market prices above $1.37 a bushel for wheat and $1.10 per bushel of corn, the loan levels in the 1973 act. Yet, production costs will be fully 50 per cent higher than in 1972. Last year's loan levels are ridiculously low in light of this year's production costs.

In 1972, fertilizer and fuel costs averaged 20 to 25 cents a bushel for corn or wheat. Today, in many instances, they are double that.

The Secretary of Agriculture has adequate administrative discretion to improve incentives and to guarantee price protection for farmers under the farm program. But he has made it clear that he wants no increases whatsoever.

In a similar vein, the Secretary insists that he wants no part of a Government system of grain reserves which, he says, would take us back to the days of price-depressing surpluses. Instead, he apparently wants reserves to be held by farmers who would bear the full cost, and by private traders and foreign governments who could dump stocks and depress prices as easily as any Secretary of Agriculture and with less concern for the farmer's interest or public good.

Many of us in the Congress take a different view.

The surpluses of the past, and the shortages of the present, have a lesson for us. They demonstrate the need to find a reserve mechanism which can prevent another collapse in farm prices, absorb any overproduction, and assure that we have enough on hand should weather or abnormal foreign demand leave us without.

Today, American agriculture is on the crest of a sellers' market. World buyers are ready to take all we can produce, at a favorable price. But it will not last forever. Memories of 75-cent corn, $1 wheat and bursting grain bins are still etched in memory.

So, we must not let the advantages of the present lull us into the complacent belief that we have reached the promised land. For much remains to be done on better price protection, on food reserves, and on a long list of other farm problems.

I am concerned, for example, that the policies of the Federal and State governments are not giving family farmers the protection they need to survive the tax-subsidized competition of conglomerates and other nonfarm institutions.

I am concerned too, about our agricultural plant. In the age of surplus, we tend to conclude that our agricultural capacity would be sufficient to meet expanding needs through the foreseeable future. There is good reason today to question such an assumption. It may now be wise to begin rethinking those policies with respect to reclamation of additional land, through irrigation and perhaps drainage, to meet projected food demand.

I am especially concerned by the fuel and fertilizer shortages which have involved my Subcommittee heavily in the past few months. It is clear by now that the fertilizer shortage is not temporary. We need substantial increases in fertilizer production capacity, especially nitrogen. If we are to have those adequate supplies, we must assure manufacturers of the necessary raw materials, especially natural gas.

We must be concerned too by the chronic rural transportation problem. In addition to hampering the delivery of fertilizer, our transportation bottleneck has delayed the movement of crops. It will require some inventive approaches, and no little haste, if we are to restore our rural transportation system so it will function in an orderly manner. Finally, we must be deeply concerned about the overall trade picture. In my opening remarks I mentioned the large stake of American farmers in world trade. Agriculture and related industries have a vital interest in the Trade Reform Act which is being considered in the Senate, and in this year's multilateral trade negotiations.

In the past, agricultural producers have been interested primarily in obtaining free access to more markets—especially the protected markets of western Europe—but also more open access to markets for fruits and livestock products in Japan.

Many countries have protective limitations on imports of agricultural products. Japan, Canada and some European countries have only recently stiffened their protective import barriers to meat products. It is essential that our negotiators see these barriers diminished substantially.

But the stake of the American farmers now goes clearly beyond better access to markets. In view of our recent experience with the Arab oil embargo and other world shortages of critical materials, we are increasingly concerned about access to supplies of raw materials.

Hence, we must shape our policies, and the trade negotiations which grow from them, in the knowledge that essential raw materials are not limitless. And we must keep at the forefront of the debate the realization that scarcity and higher prices, however hard they strike our industrial nations, are painfully harder on the poorest nations.

As a modest first step, I have argued that we must establish a system of cooperation with other nations, and with international organizations, to at least monitor food, fiber and other critical, scarce resources. We need this step because our most pressing requirement now is just to know where we are and where we are headed.

The counsel of the Governors of these western States, and that of the distinguished public witnesses, will be a great help to us in developing policies to assist the farm and ranch families of America in securing a strong and viable economic future, and then in meeting a truly global food challenge.

THE DEATH OF ROBERT BEVERLEY HERBERT

Mr. THURMOND. Mr. President, one of America's eminent men of the law died March 10, 1974, in Columbia, S.C. He was Robert Beverley Herbert who moved to Columbia from his native northern Virginia in 1897 to attend law school at the University of South Carolina. He was graduated in 1899 and stayed to practice law for 75 years.

During that span of time he established a distinguished career as a lawyer, public leader, civic official and writer. Primarily, however, he was an outstanding citizen whose eloquence and understanding made him an invaluable part of his time in history.

Mr. Herbert was truly a man of dedication to high principle and diligence to fairness and constitutional government. In the election campaign of 1960 he was my opponent for the seat I hold in the U.S. Senate. Although he was 80 years of age at the time he was a most worthy opponent and pursued his campaign with vigor and honor.

Mr. Herbert had been recognized early in his career for his outstanding community leadership, having served as president of the Columbia Chamber of Commerce in 1912. Through the years that followed, he served in a number of official capacities, including president of the Richland County Bar Association, president of the Columbia Museum of Art Commission, chairman of the board of trustees of South Carolina State College, chairman of the Columbia Academy board, chairman of the board of Good Samaritan-Waverley Hospital and membership on a number of boards and commissions.

The University of South Carolina recognized the distinction and effectiveness of his service by presenting him, first, with the Algernon Sydney Sullivan Award and, then, the honorary degree of doctor of laws.

Always interested in the public affairs of his State, Mr. Herbert had served in the South Carolina House of Representatives in the late 1920's and early 1930's. While he was well into his 90's he still was engaged in the active practice of law and was concerned with the issues of public debate.

His legal stature was well known among his peers and several times during his career he was appointed a special circut judge, most recently in 1954. His abilities were widely recognized and respected among all with whom he was associated.

I extend my deepest sympathy to his family and many friends over the death of this outstanding man. Surviving are his wife, Mrs. Georgia Hull Herbert; 2 sons, Robert Beverley Herbert, Jr., of Columbia, and Maj. James H. Herbert, of Woodside Plantation, Delaplane, Va.; 2 daughters, Mrs. George C. Hart and Mrs. Edmund R. Taylor, of Columbia; and 16 grandchildren and 2 great-grandchildren.

Mr. President, at the time of Mr. Herbert's death a number of newspaper articles and editorials were published about him. I ask unanimous consent that four of these accounts be printed in the RECORD at the conclusion of my remarks, as follows: "R. Beverley Herbert Dies," the State, Columbia, S.C., March 11, 1974; "Local Civic Leader R. Beverley Herbert Services Held Today," the Columbia Record, Columbia, S.C., March 11, 1974; "A Legacy of Service," the State, Columbia, S.C., March 13, 1974; and "R. Beverley Herbert, Attorney and Writer," the Fauquier Democrat, Warrenton, Va., March 14, 1974.

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

[From the Columbia (S.C.) State, Mar. 11, 1974]

R. BEVERLEY HERBERT DIES

R. Beverley Herbert, former member of the S.C. House of Representatives, civic and state leader, and unsuccessful candidate for national office, died Sunday afternoon in Richland County Memorial Hospital after a long illness.

Mr. Herbert came from his native Virginia to Columbia in 1897 and remained to become a leading attorney and citizen.

He served in the state House of Representatives in 1928 and 1929 and again in 1931 and 1932.

In the meantime he had run, in 1930, unsuccessfully for governor. In 1960, he ran for the United States Senate and was defeated, as he said he expected to be, by incumbent Sen. Strom Thurmond.

In the many years that he was a resident of Columbia and a citizen of South Carolina, Mr. Herbert entertained and implemented an outspoken interest in public affairs, statewide as well as local.

As far back as 1912 he was president of the Columbia Chamber of Commerce. He was president of the Richland County Bar Association in 1948. His interest in the cultural advancement of the city, and the state was shown in his active and successful presidency of the Columbia Museum of Art Commission in the early stages of that movement and of the museum's life.

In the field of education, he was once chairman of the Board of Trustees of South Carolina State College at Orangeburg. For more than half a century he had served as chairman of the Columbia Academy Board, a body which is charged with the responsibility of naming two members of the Board of Trustees of Richland School District No. 1.

Also, he was a former chairman of the Board of the Good Samaritan-Waverley Hospital and had served as a member of the Board of the Columbia Hospital, and on the Athletic Board of the University.

In recognition of his interest in, and services to, the institution, the University of South Carolina in 1959 presented him with the Algernon Sydney Sullivan Award. And in 1962, the same institution awarded him the honorary degree of Doctor of Laws. The citation described him as "One of the state's most distinguished lawyers . . . a lifelong student of sound government . . . a scholar and patron of the arts."

Known even beyond the borders of South Carolina for his interest in good race relations, Mr. Herbert, in 1969, received the honorary degree of Doctor of Humane Letters from Benedict College.

Born near The Plains, in Fauquier County, northern Virginia, in 1879, Mr. Herbert was the son of William P. Herbert and Rebecca Beverley Herbert. It was after attending boarding schools in Virginia that he came to Columbia to attend the Law School of the University of South Carolina from which he was graduated in 1899. Then came the decision to make Columbia his home.

Even beyond his 90th year Mr. Herbert was still active in the practice of law in the firm of Herbert, Dial and Windham. Nor had his interest in public matters and the public good diminished.

Mr. Herbert was in the earlier movements to improve the lot of the Negro and stabilize race relations.

Yet aspects of the growing integration movement in the 1950s and later seemed to give him some pause, and to general surprise he announced he would run against Senator Thurmond for the United States Senate.

"I am running," he said, "for the United States Senate against Senator Thurmond not because I expect to be elected, or to defeat him, but because it is the best chance I see to say things I think should be said."

In announcing, he said that he had been thinking of running "for more than a year unless the matter (of the South's side in the integration-segregation issue) was presented better than it has been.

And his announcement added: "I do not accuse Senator Thurmond or anyone else of playing politics, but, regardless of the NAACP vote and the teacher vote and any other kind of vote, our cause must be presented in its strongest form and this has not been done.

"All my life I have tried to help Negroes. It will not help to put them in a position beyond their capacity. I hope to say nothing to set race against race in South Carolina. In my opinion, both races have shown good sense and patience in this situation that has been forced on us by the infamous Supreme Court decision."

In 1968, Mr. Herbert published a book, titled "Life on a Virginia Farm." This was a compilation of columns he had written over a period of many years for "The Fauquier Democrat," the newspaper of his native Virginia county.

The book recalled his youthful life in rural Virginia at a time when the South was still suffering from the effects of the War Between the States and life was difficult.

But Mr. Herbert's recollections of that period caused him to look upon it as a toughening experience, in which joys and lessons were mixed with hardships.

He was reared on a farm named Avenel, home of his Beverley grandparents, and located in the foothills of the Blue Ridge Mountains, 50 miles due west of Washington. In his book he wrote: "My Beverley grandfather said that in his day Fauquier County is all right for oxen and men but rough on horses and women."

While Mr. Herbert became and remained a loyal and enthusiastic South Carolinian, he never neglected his Virginia origin and visited Fauquier County at least once every year.

Surviving are his widow, Mrs. R. Beverley Herbert of Columbia; two sons, Robert Beverley Herbert Jr., of Columbia and Maj. James H. Herbert of Woodside Plantation, Delaplane, Va.; two daughters, Mrs. George C. Hart and Mrs. Edmund R. Taylor of Columbia, and 16 grandchildren.

Services will be 4:30 p.m. today in Trinity Episcopal Church, conducted by the Rev. Dr. James Stirling. Burial will be in Emanuel Episcopal Church Cemetery in Delaplane, Va.

Dunbar Funeral Home, Gervais Street Chapel, is in charge.

[From the Columbia (S.C.) Record, Mar. 11, 1974]

LOCAL CIVIC LEADER R. BEVERLEY HERBERT SERVICES HELD TODAY

Funeral services for R. Beverley Herbert were held today in Trinity Episcopal Church, conducted by the Rev. Dr. James Stirling. Burial will be in Emanuel Episcopal Church Cemetery in Delaplane, Va.

Mr. Herbert, legislator, civic and state leader, died yesterday in Richland County Memorial Hospital.

Mr. Herbert came from his native Virginia to Columbia in 1897 and remained to become a leading attorney and citizen.

He served in the state House of Representatives in 1928 and 1929 and again in 1931 and 1932.

In the meantime he had run, in 1930, unsuccessfully for governor. In 1960, he ran for the United States Senate and was defeated, as he said he expected to be, by incumbent Sen. Strom Thurmond.

As far back as 1912 he was president of the Columbia Chamber of Commerce. He was president of the Richland County Bar Association in 1948. His interest in the cultural advancement of the city and the state was shown in his active and successful presidency of the Columbia Museum of Art Commission in the early stages of that movement and of the museum's life.

In the field of education, he was once chairman of the Board of Trustees of South Carolina State College at Orangeburg. For more than half a century he had served as chairman of the Columbia Academy Board.

Also, he was a former chairman of the Board of the Good Samaritan-Waverley Hospital and had served as a member of the Board of the Columbia Hospital, and on the Athletic Board of the University.

In recognition of his interest in, and services to, the institution, the University of South Carolina in 1959 presented him with the Algernon Sydney Sullivan Award. And in 1962, the same institution awarded him the honorary degree of Doctor of Laws. The citation described him as "One of the state's most distinguished lawyers . . . a lifelong student of sound government . . . a scholar and patron of the arts."

Known even beyond the borders of South Carolina for his interest in good race relations, Mr. Herbert, in 1969, received the honorary degree of Doctor of Humane Letters from Benedict College.

Born near The Plains, in Fauquier County, northern Virginia, in 1879, Mr. Herbert was the son of William P. Herbert and Rebecca Beverley Herbert. It was after attending boarding schools in Virginia that he came to Columbia to attend the Law School of the University of South Carolina from which he was graduated in 1899. Then came the decision to make Columbia his home.

Even beyond his 90th year Mr. Herbert was still active in the practice of law in the firm of Herbert, Dial and Windham. Nor had his interest in public matters and the public good diminished.

Mr. Herbert was in the earlier movements to improve the lot of the Negro and stabilize race relations.

Yet aspects of the growing integration movement in the 1950s and later seemed to give him some pause, and to general surprise he announced he would run against Senator Thurmond for the United States Senate.

"I am running," he said, "for the United States Senate against Senator Thurmond not because I expect to be elected, or to defeat him, but because it is the best chance I see to say things I think should be said."

In announcing, he said that he had been thinking of running "for more than a year unless the matter (of the South's side in the integration-segregation issue) was presented better than it has been.

And his announcement added: "I do not accuse Senator Thurmond or anyone else of playing politics, but, regardless of the NAACP vote and the teacher vote and any other kind of vote, our cause must be presented in its strongest form and this has not been done.

"All my life I have tried to help Negroes. It will not help to put them in a position beyond their capacity. I hope to say nothing to set race against race in South Carolina. In my opinion, both races have shown good sense and patience in this situation that has been forced on us by the infamous Supreme Court decision."

In 1968, Mr. Herbert published a book, titled "Life on a Virginia Farm." This was a compilation of columns he had written over a period of many years for "The Fauquier Democrat," the newspaper of his native Virginia county.

Surviving are his wife, Mrs. Georgia Hull Herbert, two sons, Robert Beverly Herbert Jr. of Columbia and Maj. James H. Herbert of Woodside Plantation, Delaplane, Va.; two daughters, Mrs. George C. Hart and Mrs. Edmund R. Taylor of Columbia; and 16 grandchildren and 2 great grandchildren.

Pallbearers will be Carrington Herbert, George L. Dial Jr., Frank H. Gibbes III, Edwin R. Herbert Jr., O. Frank Hart II, George C. Hart Jr., R. Beverley Herbert III and William E. Smith.

[From the Columbia (S.C.) State, Mar. 13, 1974]

A LEGACY OF SERVICE

Were there such an office in South Carolina as "lawyer laureate," it would long since have been bestowed upon R. Beverley Herbert, the distinguished Columbia attorney who died here Sunday at the age of 94.

Mr. Herbert was the epitome of a scholar and a gentleman, although neither characteristic dimmed the vigor of his conviction or the steel of his resolution. If anything, his courteous traits enhanced the effectiveness of his dedication to causes which he considered helpful to his community or his country.

Remarkably active even after passing the "four score and ten" mark of his useful life, Mr. Herbert maintained a continuing interest in public affairs, world events, and the legal profession. His observations in these and other fields brought him both the respect and the appreciation of his fellow citizens.

Mr. Herbert will be buried in Virginia, the

state from whence he came to Columbia in 1897. But his good name and his good works will be cherished by hosts of South Carolinians who regarded him—with good cause—as being one of us.

[From the Warrenton (Va.) Fauquier Democrat, Mar. 14, 1974]

R. BEVERLEY HERBERT, ATTORNEY AND WRITER

Robert Beverley Herbert, attorney and author, of The Plains, Va., and Columbia, S.C., died March 10 in Columbia at the age of 95.

Vigorous and, despite his age, never "old," he continued to practice law with the firm he founded, Herbert, Dial and Windham, in Columbia, and was at work on a book about his early experiences in South Carolina.

His earlier book, Life on a Virginia Farm, published by The Fauquier Democrat in 1968, was a collection of articles about growing up in Fauquier County after the Civil War.

Born in 1879 at Avenel Farm, the home of his Beverly grandparents, he attended a one-room school at Rectortown, a boys' boarding school, Locust Dale Academy in Madison County, and South Carolina College, now the University of South Carolina.

When in 1962 he was awarded an honorary Doctor of Laws degree by the university, the citation described him as "one of the state's most distinguished lawyers, a lifelong student and advocate of sound government (who) served in the (N.C.) General Assembly, a scholar and patron of the arts."

He loved to hunt and fish, play bridge and hike in the pinewoods. He wrote a great deal—straightforward letters to the editor, correspondence to other attorneys, many of them young, and to men in public life, "encouraging, recording, protesting and praising."

Last year he was interviewed, with Mrs. Emily Ramey of Rectortown, on a WNVT-53 program exploring farm life as it used to be in Northern Virginia.

Mr. Herbert is survived by his wife, the former Georgia Hull, and four children, Mrs. George Hart, Mrs. Edmund Taylor and Robert B., Jr., all of Columbia, James H. Herbert, Delaplane, and 16 grandchildren.

Services were held for him in Columbia March 11. Graveside services were conducted March 12 at Emanuel Episcopal Church, Delaplane.

PAUL SAMUELSON SUPPORTS ANTI-RECESSION TAX CUT

Mr. MONDALE. Mr. President, Nobel laureate Paul Samuelson has joined with a number of other eminent economists in calling for an antirecession tax cut.

I asked Dr. Samuelson for his views on my proposal for a $200 optional tax credit in lieu of the $750 personal exemption. In his response, he said:

> I believe . . . that a majority of mainstream American economists would favor this proposal on the basis of a broad nonpartisan consensus.

According to Dr. Samuelson, the economy is now in a state of "stagflation":

> Real family incomes have not been growing in the way considered par for our system. If ever there were a good time for introducing this reform, with its implied $6 billion revenue loss, this would seem to be it.

I ask uanimous consent that the full text of Dr. Samuelson's letter be printed in the RECORD.

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

MASSACHUSETTS INSTITUTE OF TECHNOLOGY,
Cambridge, Mass., March 27, 1974.

Senator WALTER F. MONDALE,
U.S. Senate, Washington, D.C.

DEAR SENATOR MONDALE: I am glad to respond to your request of March for my views on your proposal to give taxpayers the option of taking a $200 credit for themselves and each dependent if they prefer that over the current $750 exemption.

I do favor this proposal. Perhaps the three most important considerations in its favor are the following:

1. Because of the rise in prices and cost of minimum living standard in the 30 years since World War II, the present exemption level is increasingly inadequate, being more onerous than was thought appropriate even in the middle of World War II when our system was fighting for its life. So an increase in effective tax reduction at the bottom, such as you are recommending, has been long overdue regardless of the state of the business cycle.

2. Currently the U.S. economy is in a state of stagflation. Real family incomes have not been growing in the way considered par for our system. If ever there were a good time for introducing this reform, with its implied $6 billion revenue loss, this would seem to be it. I say this taking due regard of the fact that as I write the consumers price index is soaring around the 10 percent annual rate. However, the causes of the most recent acceleration of the price level are not to be found primarily in an excess of consumer purchasing power, but rather in the realm of energy, food, and other staple prices. Reducing the onerous tax burden on the middle and low-income taxpayers is not calculated to worsen this kind of inflation—and indeed a powerful case can be made, as Dr. Heller has recently shown, that the moderation in wage settlements of recent times can be best preserved by just such tax reform.

3. Finally, there is the point that energy costs will be irreversibly higher than before the October Mideast War. This hits middle and low income families particularly. Even the Administration economists agreed, at the time when they were fearing political pressures for gasoline and fuel rationing in the interests of equity, that a strong economic case could be made for offsetting some of the rise in market prices for energy by middle- and low-income tax adjustments. Your bill, it seems to me, achieves this vital purpose with a minimum of administrative difficulty. So, aside from the long-term and the cyclical arguments for your proposal, I think there is a powerful reinforcing argument from the standpoint of efficiency and equity in adjusting to the higher costs of energy that will be with us in the longer run.

I have not exhausted the arguments for the tax-credit proposal, nor commented in detail on the counter arguments. But I believe I have said enough to indicate that a majority of mainstream American economists would favor this proposal on the basis of a broad nonpartisan consensus.

Sincerely yours,

PAUL A. SAMUELSON,
Institute Professor.

THE INDIAN ACHIEVEMENT AWARD FOR 1973 PRESENTED TO AN ALASKAN NATIVE

Mr. STEVENS. Mr. President, I am very proud to call the attention of my colleagues to a recent award: The Indian Achievement Award for 1973 has been presented to an Alaska Native—a Tlingit from the village of Yakatat—Mrs. Elaine Ramos. Mrs. Ramos was given the achievement citation recently here in Washington by the president of the Indian Council Fire organization, Forrest Gerrard. Mrs. Ramos was chosen from over 200 competitors from across the country. This is the first time in the award's 40-year history it has been presented to an Alaska Native. Another Alaska Native, Commissioner of Indian Affairs Morris Thompson, delivered the keynote address. Also taking part in the luncheon ceremony were former award winners George Lavatta, special assistant to Commissioner Thompson; Louis R. Bruce, Assistant Director of the Coalition of Eastern Native Americans; Council Fire President Forrest Gerrard; Wilma Victor, Assistant to the Secretary of the Interior for Indian Affairs. Mrs. Ramos, in accepting the award, said:

> The Indian Council Fire brings pride to the Indian people. When I knew I was to get this award, it was like the sun breaking through to my people—Rays of hope, rays of sunlight to my people in Alaska.

In remarks prepared for the occasion, Commissioner Thompson described Mrs. Ramos' unique contributions to her people which so well qualify her for this distinguished honor.

Mr. President, I ask unanimous consent that the keynote address of Commissioner Thompson be printed in the RECORD.

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

REMARKS OF MORRIS THOMPSON

Alaska Natives are in the headlines of this Nation's newspapers today because land and dollars are flowing to them through provisions of the Alaska Native Claims Settlement Act. That act put more land into the hands of Native people than has any other single action on the part of the United States Government. It is a unique solution to an unusual situation.

Alaska Natives will be in the Nation's headlines tomorrow because of the lifetime dedication of a single Alaska Native—Elaine Abraham Ramos. She is the first Alaska Native to win the Indian Council Fire Achievement Award, Inc., and the 38th Native American to be so honored. As an Alaska Native myself, I am particularly proud to bask in the reflected glory of her achievement, and I am grateful to the Indian Council Fire that I have been asked to make a few remarks.

It is perhaps an omen that an Alaska Native of the caliber of Elaine Ramos has emerged to be singled out for the Indian Council Fire Achievement Award, Inc., at this time.

Alaska Natives are in the process of changing their ways of life. Not each one of them, by any means. But as a group, few would deny that they are. For Alaska Natives to move successfully into the the future that is before them demands skills and contributions of all kinds from their numbers.

It is perhaps unnecessary to point out that good health is the foundation of individual and family stability and the basis for successful transitions of any type. But that involvement in the health of Alaska Natives is now coming from *within* the Native population is perhaps less obvious and worthy of highlighting. Mrs. Ramos brought medical quality to her own people—the Tlinget Indians of Southeast Alaska—then went on to help all Native Alaskans participate in medical progress in their own behalf.

A second important need of all Native Americans is education. Mrs. Ramos holds a post in education that is a credit to her, to the Tlinget Indians, and to all Alaska Natives. It is also an inspiration to Alaska Na-

tives of all ages. She is vice-president of Sheldon Jackson College, Sitka, the oldest college to hold classes without interruption in the State of Alaska.

On a year's leave-of-absence now from this post, she is administrative director of the new Alaska Native Language Center at the University of Alaska. In this capacity, Mrs. Ramos visits Native villages and arranges for language workshops with persons fluent in both English and one of the 19 different Indian or Eskimo languages native to Alaska.

I am happy to say that the Bureau of Indian Affairs has been a part of the bilingual program in effect now in the Kuskokwim Valley near Bethel, Alaska, with which Mrs. Ramos works. This is a pilot program involving Yupik Eskimo and English, and is being watched with considerable interest for the lessons it holds for all Native American education.

Mrs. Ramos has indicated her pride in her own Tlinget heritage by sponsoring, with her family, the Ravan dancers. The Tlinget legend of the Ravan, parallels that of the flood told in the Christian Old Testament. By enabling Natives and non-Natives alike to see the beauty of one of the oldest religions on the North American continent she has created a bridge between Americans of many ethnic backgrounds.

I would like, today, to compliment the Tlinget Indians who have given us Elaine Ramos. They number about 8,000 today, and were, in the past, renowned as totem pole builders. These totem poles were clan records—the Ravan is one clan—but today they are to many, a symbol of all Alaskan Indians. The Tlingets also founded the Alaska Native Brotherhood, the oldest continuously functioning fraternal organization of American Indians, and a leader in the effort to successfully bring to a conclusion the claims of Alaska Natives for land.

Before I close I would like to pay my respects to Marion Gridley, a guiding hand behind the Indian Council Fire Achievement Award, Inc., since it was first bestowed—in 1933—upon Dr. Charles A. Eastman, a Sioux, at the Chicago Century of Progress. The Indian Council Fire itself, was founded ten years before, she tells me, by her family. Ten thousand people watched at the Chicago Fair as the council fire was lit by the light of a star with the help of the most recent technological innovation of the day. It was the "moon walk" of its time.

Mrs. Gridley has dedicated her life to seeing that contemporary Indian life is acknowledged and respected. She has published a number of books that are unique contributions to that purpose and that are, I might add, used by the Bureau of Indian Affairs schools where they enhance the self-image of the coming generation of Native Americans.

Again, I am pleased to congratulate Elaine Abraham Ramos for the honor that has come to her and to say—as an Alaska Native myself—that I hope she will not be the last Alaska Native to be honored. I know Elaine Ramos will be the first Alaska Native to agree.

TAX REFORM

Mr. CANNON. Mr. President, it is with a deep sense of urgency and grave concern that I urge substantial revision of our present income tax structure. The patience of middle- and lower-income taxpayers is exhausted with the tax loopholes for the rich and with a tax burden in 1974 that will eat away 2½ hours of wages every working day for the average family. Smoldering discontent breaks into anger over revelations of the Nixon tax dodges and disgraceful statistics that last year some 402 wealthy Americans were able to earn over $100,000 and not pay 1 penny in income tax. Congress cannot remain mute in the face of ever-growing and justified public cries for positive action. Tax reform in 1974 should have an indispensable place on the legislative calendar of Congress.

I would like to address my remarks to one of the most flagrant loopholes in the present system, minimum tax assessed against tax preference items. Mr. President, this is the worst of all situations: Not only does it deceive the public into believing the rich are being forced to pay their fair share but it is preserving some of the most unfair loopholes in the tax code.

The minimum tax, enacted into law in 1969, has failed to insure the wealthy pay at least some minimum amount of tax on their earnings. Applied against the nine tax preference items, such as accelerated depreciation of property and percentage depletion of oil and gas wells, and capital gains it assesses a flat 10-percent tax against deduction well below even the 14-percent threshold rate applied to less fortunate taxpayers earning below the poverty level.

In addition to this exceptionally low flat rate of 10 percent, there is also an automatic $30,000 exclusion and a deduction of regular taxes paid. Subtracting these two deductions means that an individual with $130,000 of preference income will pay no minimum tax if he pays tax on regular income of $100,000. It should be no surprise that the minimum tax generated little revenue—about $164 million in calendar year 1972.

The income between $100,000 and $130,000 under the Internal Revenue Code should be taxed at the regular progressive rates, but since the code sidepasses income from tax-preference items and the extremely lax minimum tax provision has no effect, the $30,000 will go untaxed.

Mr. President, there are viable remedies to this inequity. As a consistent supporter of the Kennedy-Reuss proposal, I believe the most productive avenue to pursue is a tightening of the present minimum tax law rather than its repeal and replacement with other concepts such as minimum tax income and limitation on artificial accounting losses proposed by the administration. The Kennedy-Reuss proposal reduces the $30,000 automatic exclusion to $10,000; eliminates the deductibility of regular income taxes paid, and assesses a more reasonable progressive rate—from 7 percent to 35 percent—on the tax-preference items.

A revealing study by the Joint Committee on Internal Revenue Taxation indicates that an additional 71,000 tax returns of individuals earning over $50,000 would be affected by the adoption of the Kennedy-Reuss minimum tax proposal. The additional tax collected under this legislation would amount to $1.3 billion to those taxpayers who earn over $100,000 per year, having little effect on the middle- and lower-income taxpayer.

I would also urge priority congressional consideration in the area of tax-free bonds. This $2.5 billion annual Treasury drain, that is noteworthy in its concept to encourage investment into municipal and State bonds, but amounts to more than tax savings for corporations and wealthy individuals, and an extremely costly method of financing public projects. The top one-tenth of 1 percent of the Nation's wealthiest individuals own 70 percent of municipal bonds. The Bank of America, the Nation's largest bank, owns about $3 billion in bonds, which generates $150 million of tax-free income annually. Translated another way, it means the average taxpayer had to offset the $72 million tax break given the Bank of America.

It is clear the Treasury loses far more in revenues than local governments save in lower borrowing costs through the tax-free bond concept. The Federal Government taxing these bonds could give local governments up to a 50-percent interest subsidy and still break even on revenue. In operation this means the State could issue an 8-percent bond, receive a 4-percent subsidy from the Federal Government, and end up paying only 4 percent, less than their borrowing costs are at the present. The vast improvement in the equity of the tax structure is obvious.

Making the wealthy pay their fair share is only half the story. The additional revenue gained from closing the loopholes must go to offset the tax burden of the wage earner who bears the brunt of uncontrollable inflation. I have cosponsored with Senator MONDALE a bill to provide a $200 credit in lieu of the $750 personal exemption. This will provide an average tax savings of $200 to the middle- and lower-income families. I hope the House and Senate will act quickly so we can undercut the effects of a pending recession by pumping this more than $6.5 billion into the economy.

Mr. President, as April 15 passed and the corporations and the wealthy skated through loopholes in the tax laws and the less fortunate paid up, I hope my distinguished colleagues will take a critical look at the present income tax laws, and effect these long overdue reforms.

THE DEATH OF MAJ. GEN. LEWIE GRIFFITH MERRITT

Mr. THURMOND. Mr. President, an outstanding South Carolinian, Maj. Gen. Lewie Griffith Merritt, U.S. Marine Corps, retired, who served both his State and Nation with distinction throughout his life died March 24, 1974, at the age of 76.

After 30 years in the U.S. Marine Corps, during which he established a distinguished record, General Merritt retired to his native State. This was during my term as Governor of South Carolina and I asked him to become director of the newly organized Legislative Council of the South Carolina General Assembly. During the next 18 years in this position he continued to provide highly capable public service to the legislature and to the people of our State.

A native of Ridge Spring, S.C., he was graduated from The Citadel in 1917 and was commissioned a second lieutenant in the Marine Corps. His duty stations extended from the battlefields of Europe in World War I to the embattled skies over the Pacific in World War II, and beyond. A brigadier general by 1942, he was often a key figure in the development and implementation of new air warfare tactics.

At the conclusion of World War II, General Merritt returned to the United States and commanded the Marine Air Station at Cherry Point, N.C., until his retirement. After a short period, during which he practiced law, he began in the State Capitol of South Carolina his second distinguished public career.

The contributions he was to make as director of the legislative council were many. In addition to drafting prospective legislation, he also supervised the revision of the South Carolina Code of Laws in 1962. He served on a special reapportionment committee, the Council of State Governments and the Uniform Code Commission of the council.

The energetic and skillful way in which General Merritt discharged his duties has brought lasting and beneficial rewards to his State and Nation.

I extend my deepest sympathy to his family, friends, and associates who mourn his passing. Surviving are his wife, Mrs. Grace Marie Comerford Merritt; a son, Lewie G. Merritt, Jr.; and three grandchildren.

Mr. President, at the time of his death a number of newspaper articles and tributes appeared around South Carolina about this outstanding man. I ask unanimous consent that three of these be printed in the RECORD at the conclusion of my remarks, as follows: "Maj Gen. Merritt Plans Incomplete," The Columbia Record, Columbia, S.C., March 25, 1974; "Marine, S.C. Administrator Gen. Merritt Dies at 76," the State, Columbia, S.C., March 26, 1974; and "Maj. Gen. Lewie G. Merritt Services Scheduled Thursday," the Columbia Record, Columbia, S.C., March 26, 1974.

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

[From the Columbia Record, Mar. 25, 1974]

MAJOR GENERAL MERRITT PLANS INCOMPLETE

Maj. Gen. Lewie G. Merritt died Saturday in Fort Sam Houston, Texas, after a long illness.

Funeral plans will be announced.

General Merritt was a graduate of The Citadel. He entered the Marine Corps, retiring in 1947 as a major general.

He was appointed, by then Governor Strom Thurmond in 1948, as director of the Legislative Council, shortly after his retirement from the service. In 1954, General Merritt took on the added duties of code commissioner, retiring in 1971.

Born June 26, 1893 in Ridge Spring, he was a son of the late James Albert Merritt and Blanche Griffith Merritt.

Surviving are his wife, Mrs. Grace Marie Comerford Merritt; a son, Lewie G. Merritt Jr.; and three grandchildren.

[From the State, Mar. 26, 1974]

MARINE, SOUTH CAROLINA ADMINISTRATOR, GENERAL MERRITT, DIES AT 76

Major Gen. Lewie Griffith Merritt (USMC-ret.), 76, who ended a distinguished 30-year career with the Marine Corps only to begin an able career of public service as director of the Legislative Council of the South Carolina General Assembly, died Sunday in Fort Sam Houston, Tex., after a long illness.

Born in Ridge Spring, he was a son of the late James Albert and Blanche Griffith Merritt. He graduated in 1917 from The Citadel with a commission as second lieutenant in the Marine Corps.

He served in Santo Domingo and as an infantry officer in France during World War I.

Following the war he was graduated from Naval Aviation Training School at Pensacola, Fla.; the Air Corps, Tactical School, Langley Field, Va.; and from the Command and General Staff School at Fort Leavenworth, Kans. He also served aboard the U.S.S. New Mexico.

He was later in command of Aircraft Two, Fleet Marine Force, Naval Air Station, San Diego, Calif.

Gen. Merritt was a pioneer in Marine aviation. He was the first American shot down by enemy forces in the European Theater during World War II. His plane crash-landed in the Libyan Desert near enemy gun positions; however, he and the crew averted capture when two British armored cars appeared and rescued them. He had been assigned to British forces in North Africa to observe British tactics.

He became a brigadier general in 1942.

Later in the war he commanded the Fourth Marine Air Wing in the Central Pacific, directing a part of the air support for Marine ground forces in the invasions of the islands of Tarawa and Kwajalein.

After World War II, Gen. Merritt took part in the President's Strategic Bombing Survey special study of U.S. assaults against Japanese defenses.

Gen. Merritt was one of the first aviators to use dive bombing, one of the most important combat tactics in modern air warfare.

He received the Bronze Star with combat V and the Legion of Merit for exceptionally outstanding performance of duty to country.

From the end of World War II until his retirement from the Marine Corps in 1947 as a major general. Gen. Merritt commanded the largest Marine Air Base in the United States at Cherry Point, N.C.

In 1928 Gen. Merritt had earned a law degree from George Washington University and so, upon retirement, he began a law practice in West Columbia.

He was appointed by then-governor Strom Thurmond in 1949 as first director of the newly created S.C. Legislative Council, which drafts legislation of the South Carolina General Assembly. He took on the added duties of Code Commissioner in 1954 when that constitutional office was combined with the Legislative Council.

As director of the Legislative Council, Gen. Merritt supervised the "ghost-writing" of South Carolina legislation and its incorporation into permanent statutes. The Legislative Council is located in the State House, midway between House and Senate chambers.

When not drafting bills and codifying laws, Gen. Merritt's staff assisted special study committees of the General Assembly.

Gen. Merritt was in charge of the revision of the Code of Laws of South Carolina completed in 1962.

In 1965 he was a member of a special reapportionment committee to study court-ordered reshuffling of seats in the state Senate.

Gen. Merritt retired from the Legislative Council in 1967.

In his offices with the Council of State Governments, Gen. Merritt was a booster for South Carolina, drawing interest in his native state by force of his magnetic personality. He was past president of the National Legislative Conference of the Council, a past member of the Uniform Code Commission of the Conference and past chairman of the Southern Regional Conference of the Council.

In these posts he was responsible for simplifying and standardizing the maze of overlapping state laws into a code of laws for use throughout the nation.

In 1954 Gen. Merritt was campaign manager for Lt. Gov. George Bell Timmerman Jr. in his successful first bid for the governor's office.

In 1966 Gen. Merritt served as Lexington and Richland County chairman of the Christmas Seal Campaign against tuberculosis and other lung diseases.

Gov. John C. West said Monday of Gen. Merritt, "I am deeply saddened to learn of Gen. Lewie G. Merritt's death. He was not only a good personal friend for 25 years, but a man whose judgment and wisdom I respected highly. By serving as parade marshall for my inaugural parade in 1971, he did me a great honor and I shall always treasure the memory of his friendship.

"He served his nation with distinction as a general in the Marine Corps, and he brought great leadership to South Carolina as director of the Legislative Council and as a citizen of great energies and devotion to his native state."

Surviving are his widow, Mrs. Grace Marie Comerford Merritt; a son; and three grandchildren.

Plans will be announced by Dunbar Funeral Home, Devine Street Chapel.

The family suggests that those who wish may make memorials to medical research.

[From the Columbia Record, Mar. 26, 1974]

MAJ. GEN. LEWIE G. MERRITT SERVICES SCHEDULED THURSDAY

A Funeral Mass for Maj. Gen. Lewie Griffith Merritt (USMC, ret.) will be said Thursday at 11 a.m. at St. Joseph's Catholic Church. Burial is tentatively set for Friday in Arlington National Cemetery.

A Rosary will be recited tomorrow at 7:30 p.m. at Dunbar Funeral Home, Devine Street Chapel.

General Merritt, 76, died Sunday in Fort Sam Houston, Tex. Prior to moving to Mexico over a year ago, he had made his home in West Columbia.

Born in Ridge Spring, he was a son of the late James Albert and Blanche Griffith Merritt. He graduated in 1917 from The Citadel with a commission as second lieutenant in the Marine Corps.

He served in Santo Domingo and as an infantry officer in France during World War I.

Following the war he was graduated from Naval Aviation Training School at Pensacola, Fla.; the Air Corps, Tactical School, Langley Field, Va.; and from the Command and General Staff School at Fort Leavenworth, Kans. He also served aboard the U.S.S. New Mexico.

He was later in command of Aircraft Two, Fleet Marine Force, Naval Air Station, San Diego, Calif.

General Merritt was a pioneer in Marine aviation. He was the first American shot down by enemy forces in the European Theater during World War II. His plane crash-landed in the Libyan Desert near enemy gun positions; however, he and the crew averted capture when two British

armored cars appeared and rescued them. He had been assigned to British forces in North Africa to observe British tactics.

He became a brigadier general in 1942.

Later in the war he commanded the Fourth Marine Air Wing in the Central Pacific, directing a part of the air support for Marine ground forces in the invasions of the islands of Tarawa and Kwajalein.

After World War II, General Merritt took part in the President's Strategic Bombing Survey special study of U.S. assaults against Japanese defenses.

He was one of the first aviators to use dive dombing, one of the most important combat tactics in modern air warfare.

He received the Bronze Star with combat V and the Legion of Merit for exceptionally outstanding performance of duty to country.

From the end of World War II until his retirement from the Marine Corps in 1947 as a major general, General Merritt commanded the largest Marine Air Base in the United States at Cherry Point, N.C.

In 1928 he had earned a law degree from George Washington University and so, upon retirement, he began a law practice in West Columbia.

He was appointed by then-governor Strom Thurmond in 1949 as first director of the newly created S.C. Legislative Council, which drafts legislation of the South Carolina General Assembly. He took on the added duties of Code Commissioner in 1954 when that contitutional office was combined with the Legislative Council.

As director of the Legislative Council, Gen. Merritt supervised the "ghost-writing" of South Carolina legislation and its incorporation into permanent statutes. The Legislative Council is located in the State House, midway between House and Senate chambers.

When not drafting bills and codifying laws, Gen. Merritt's staff assisted special study committees of the General Assembly.

General Merritt was in charge of the revision of the Code of Laws of South Carolina completed in 1962.

In 1965 he was a member of a special reapportionment committee to study court-ordered reshuffling of seats in the state Senate.

He retired from the Legislative Council in 1967.

General Merritt was past president of the National Legislative Conference of the Council, a past member of the Uniform Code Commission of the Conference and past chairman of the Southern Regional Conference.

In 1954 General Merritt was campaign manager for Lt. Gov. George Bell Timmerman, Jr. in his successful first bid for the governor's office.

In 1966 General Merritt served as Lexington and Richland County Chairman of the Christmas Seal Campaign against tuberculosis and other lung diseases.

SPACE EXPLORATION

Mr. MOSS. Mr. President, in a recent review titled "Exploration of the Solar System," the contributing scientists have given a cogent explanation of the importance of understanding the solar system—both now and in the future. As a Member of Congress interested in the future of our society, I believe that many solutions to present problems can be found in our space programs. I, therefore, commend the review for my colleagues' reading. I ask unanimous consent that an extract of this review be printed in the RECORD.

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

SPACE EXPLORATION

WHY IS UNDERSTANDING OF THE SOLAR SYSTEM IMPORTANT TO US, NOW AND IN THE FUTURE?

Man's exploration of the solar system is often considered to be no more than an exercise in his intellectual curiosity, and of value only to further the understanding of his origins and to aid his purely intellectual development. This view is, however, a limited one. As we have seen in the preceding paragraphs and as will be discussed further in some detail, from the work of the earliest astronomers, mankind has derived tangible benefit from such exploration in virtually all areas of human endeavor. And, although the past is no guarantee for the future, it appears that today, with our advanced state of technology and manifest needs, the potential for such benefits is greater than ever before.

It must be made clear, however, that these potential benefits, like those of any research program whose time scales are measured in decades, cannot be subjected to the usual criteria employed in the analysis of benefits and costs. History has clearly marked the progress which is directly traceable to non-directed basic research, and it is this aspect of solar system exploration which constitutes its primary motivation.

Even at this early stage in solar system exploration, however, several potential benefits are beginning to surface. For example, solar radiation is not only the source of all life (as well as a danger to life) but also is one of our two principal potential sources for future energy supplies. Furthermore, the Sun has served as a model for many of our other energy-source developments. The basic concept for nuclear fusion, our other principal potential source of energy, was derived originally from studies of the Sun, as will be discussed later.

Disturbance in the solar wind, as produced by solar flares, cause corresponding disturbances in the Earth's magnetosphere (magnetic storms). These storms are responsible for communications disruptions as well as brilliant auroral displays. They can be quite hazardous to astronauts, but may also affect aircraft crews and passengers. We need to understand more about these spectacular phenomena. Statistical studies suggest that magnetic storms may appreciably affect global aspects of our terrestrial weather. Thus, monitoring of the solar wind may become an essential element in complete terrestrial weather forecasting.

The ultraviolet and X-rays emitted by the Sun are responsible for the terrestrial ionosphere, a phenomenon essential to long-distance radio communication. Another vital product of solar ultra-violet radiation is the terrestrial ozone layer. Ozone has the important property of absorbing ultraviolet light and preventing it from reaching the surface of the Earth. Without this protection, life as we know it would be very difficult or impossible. Thus, it is of great practical importance that we understand variations in solar ionizing radiation.

The planets of the solar system are natural laboratories for observing the extension of the ranges and scales of phenomena also present on Earth. For instance, exploration of the trapped radiation and magnetic fields of other planets is an important tool in understanding the formation and development of all planets, including our own. This understanding may bear upon problems of preserving Earth's water supply and controlling the long-term development of our atmosphere.

Further, man cannot ignore the possibility that he may require the use of the uninhabited planets as cosmic laboratories to conduct experiments and operations necessary for his survival but far too dangerous to conduct on Earth. For example, we are already considering using the Sun or interplanetary space to dispose of future radioactive wastes from nuclear powerplants.

We can ask many even more specific questions in solar system exploration whose answers are directly applicable to Earth interests. Highly accurate distance measuring on interplanetary scales is currently being applied to intercontinental surveying on Earth. This research is the basis for study of the mechanics of earthquakes and volcanic activity. Sterilization techniques originally developed for planetary quarantine have so far surpassed conventional methods that they are being rapidly incorporated by large general hospitals across the country, and are beginning to contribute to the success of sophisticated medical procedures—just 16 years from the first space launch. The concepts of reliability and miniaturization, needed to make long deep-space missions a reality, are already at work for us in radios, television sets, computers, communication devices, and innumerable other applications.

In a few years the impetus from development of our outer-planet spacecraft, faced by communication turnaround times measured in hours, will make "self-repairing" mechanical/electrical systems feasible. These spacecraft will also have to incorporate enough "artificial intelligence" to enable them to react to events requiring near-instant decisions. Such systems will have considerable potential for improvement of our Earth-based transportation and communications systems.

Although many of the "visible" benefits of solar system exploration are in these indirect "spin-offs," we must never lose track of the basic truth that they are not by any means the sole or even the main justification for space spending. As Senator Lowell Weicker of Connecticut has warned us:

"Much of the emphasis of the space program lately has been pointed toward Earth's benefits of the program. Fair enough; in a time of lagging interest, it's proper to remind the public of the tangible benefits that have spun out of the space program. But let's remember one thing: the space program did not set out to find these specific off-shoots. They emerged and were seized on as part of the more difficult, almost impossible, effort to get on the Moon. And so we can cite such accomplishments as the communications satellites and the special weather-forecasting satellites, indisputable great boons to mankind. But remember, we came upon them on our way to the stars—not by grubbing around in the ledgerbooks."

And it is "on our way to the stars" that the greatest benefits to mankind will be reaped. First, from an international viewpoint, the solar system belongs to all men, and man's common goals for its exploration have served to unite nations in ways that can only benefit all concerned.

In a sense, science, like the arts, offers an opportunity for cultural exchange—a common ground for men to meet in cooperation rather than conflict. One principal bonus of cooperation in international space exploration is the relief of the binding tie in formal or informal treaty arrangements. International cooperation also paves the way for a certain amount of technological cross-fertilization and elimination of duplication of effort. These factors associated with the involvement of other nations help to justify continuation of specific programs. The current involvement of the European Space Research Organization in developing a Spacelab to be used with the U.S. space shuttle is a case in point.

There also is a part to be played by competition. Man, as sociologists are rediscovering, is still a contentious, envious creature. Without competition, his projects may lose

their spark and drive. Much of our technological progress in the past, with its consequent impact on the dominant industrial and economic factors which govern our present civilization, has been made through war. The exploration of space offers a far more attractive motivation for broad advances in technology, particularly if a proper balance can be struck between international cooperation and a healthy rivalry in space exploration achievements.

Also, space exploration brings our goal-seeking youth new horizons to be explored; new areas to occupy and exercise their intellects. Finally, a fundamental drive of man in his exploration beyond the Earth is the search for extraterrestrial life.

At present, there is no direct evidence for life on any of the other planets, but the observations to date would hardly be capable of detecting life on Earth. It has been said that if life *of any kind* is discovered elsewhere in our own solar system, we can assume that it will occur wherever conditions amenable to the origin of life exist—and, hence, that intelligent civilizations probably exist elsewhere in our galaxy. Nothing could have a greater impact on man, his philosophy or his institutions than the discovery of intelligent life elsewhere, and the subsequent need to cope with it.

It is in such a framework that the motivations for solar system exploration should be viewed, rather than in the immediate "marketplace" of cost and benefit comparisons with other critically important but necessary short-range national needs.

COPPER EXPORTING COMPANIES CONVENING TO REGULATE PRICES

Mr. DOMENICI. Mr. President, I wish to thank the distinguished Senator from Alaska (Mr. STEVENS) for his kind remarks. I know that he, and the distinguished Senator from Kentucky (Mr. HUDDLESTON) have expressed great interest in our minerals availability problem, as have others in this Nation. I hope that we may work together to formulate policy and a way to implement that policy though the legislative process.

My concerns expressed last week in my home State have been realized sooner than anyone would have dared predict. Yesterday's New York Times contained a story outlining the proposed meeting among the four largest copper exporters in the world. The meeting would be for the purpose of establishing world prices. The handwriting is on the wall and I believe that it will be the need for foreign capital in ever-larger amounts that provides the primary motivation for the activities of the minerals-producing and exporting nations. This means we must develop a policy to deal with new demands and to discover mineral substitutes. Above all, it means that this Nation is going to have to forge a viable third-world policy. I noted the remarks last week by Secretary of State Henry Kissinger, who implied much the same sentiment—we need to recognize that minerals production is in the interests of all nations. A third-world policy based on both the realities of industrial needs and underdeveloped countries' terrible capital shortage will serve us in good stead during the next decade.

I ask unanimous consent that the New York Times article, "Copper Exporting Countries Convening To Regulate Prices" be printed in the RECORD.

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

COPPER EXPORTING COUNTIES CONVENING TO REGULATE PRICES

The oil countries' successful assault on the treasuries of the industrialized world in the last year has already inspired the principal bauxite countries to take concerted action, and now the major copper exporting countries are going to try it, too.

Next week the four biggest copper exporters—Chile, Peru, Zaire and Zambia—will meet in Austria to draw up their demands.

According to trade sources, the group will probably seek to set minimum copper prices in a range of 75 to 90 cents a pound. The present free market price of copper is $1.30 a pound.

However, domestic copper has been 68 cents under price controls due to expire next week.

The price of copper has tripled from a low of 42 cents a pound in the seven years since the four countries formed themselves into the Intergovernmental Committee of Copper Exporting Countries. The often-volatile movements have caused severe problems to the four developing countries, which account for 80 per cent of the world's copper exports.

The volatile price movements have upset their developments over the years.

WHAT 1-CENT MOVE REPRESENTS

Each 1-cent move represents $11-million for Chile, somewhat less for Peru and considerably more for the two African producers because of their different levels of output.

The reaction by the copper trade in the industrialized lands to the four countries' moves to create a cartel patterned after that formed by the Organization of Petroleum Exporting Countries has varied over the years.

"We were amused," an executive of a big commodity-trading house said here the other day, "when OPEC was formed in 1960. We were even more amused when the copper group was created six years later.

"But we stopped being amused last September when both groups managed to bury their internal political differences, which we thought were too great to permit effective coordination of strategy.

"After what OPEC managed to do last October, anyone who is still amused is mad."

Although the copper exporters do not have anywhere near the economic influence of the oil producers, that commodity is nevertheless vital to a multitude of industries—in the industrial countries.

Moreover, any moves by the copper group are expected to be quickly followed by other basic-commodity exporters.

The big aluminum companies—Alcoa, Kaiser, Reynolds, Revere, and the Aluminum Company of Canada—resume price negotiations today with Jamaica, the second major bauxite producer. Indicating how these things are intertwined, one source close to those talks said last week that "Jamaica would be negotiating with the eye on the copper group, because aluminum was copper's chief competitor in the metals industry."

There is substantial disagreement among economists, businessmen, politicians and others concerned about the nonpetroleum commodity exporters, including copper producers, actually could form successful cartels for extracting larger profits from the industrialized countries. In copper's case, for instance, they point out that the United States produces almost 90 per cent of what it needs.

Further, the doubters point out that the four principal exporters produce only 40 percent of world copper supplies and that they are far less independent economically than the big oil producers.

This reasoning has been debated by many speakers at the current special United Nations General Assembly meeting on the world commodity crisis.

For one thing, many of them have said, the ability to export a commodity today is often far more important than filling domestic needs. They said this was particularly true for developing nations that required vast amounts of foreign exchange.

Indeed, most speakers have warned that the very need for foreign exchange is forcing the poorer raw-material exporting countries to form cartels, whether they like it or not, as a means of raising the money to pay for vital imported goods. The cost of the manufactured goods and foodstuffs bought by the developing countries is exceeding prices of the raw materials that they sell, according to United Nations surveys being used during the three-week conference.

The commodity specialists also note that, in the case of both oil and the metals, the producers and exporters are, like as not, the processors and fabricators of the finished products.

Thus, while the host country can regulate output and price levels, its exportable commodity often is produced by the company that will buy, import, process and market it.

In both cases—fuel oil and metals—the ability to pass along higher raw-material costs is governed only by the availability of substitute commodities and the consumers' willingness or ability to pay.

DEPUTY CHIEF NOEL A. McQUOWN

Mr. TUNNEY. Mr. President, I would like to share with my colleagues the outstanding record of Deputy Chief Noel A. McQuown of the Los Angeles Police Department and to extend the Senate's commendation and best wishes for a happy and productive retirement to Deputy Chief McQuown as he terminates 37 years of dedicated service in the public interest.

Chief McQuown joined the department on January 2, 1937, and will be honored at a retirement dinner to be held at the Los Angeles Police Academy on Friday, May 3, 1974.

It is a distinct pleasure for me to enter this chronology of outstanding achievement into the CONGRESSIONAL RECORD.

Chief Noel A. McQuown joined the Department on January 2, 1937. He was promoted to sergeant on February 1, 1942 and rose to the rank of lieutenant on August 17, 1944. He attained the rank of captain August 28, 1949, and was advanced to inspector November 14, 1952, and achieved the rank of deputy chief August 31, 1960. His service time at retirement totaled 37 years and 3 months.

Among his many innovative and functional contributions, Chief McQuown completely redesigned the department's role in planning and policing parades resulting in many commendations. He authored department training bulletins, "McQuown on Parades."

Deputy Chief McQuown organized the first department special events planning section.

In 1950, he developed the still-used reporting districts system enabling the use of statistics already available, for example, population, racial composition, and so forth, and the car assignment field unit identification system.

One of the real pioneers in emphasiz-

ing the role of the police in human relations, Chief McQuown has been selected for the award of merit from the National Conference of Christians and Jews.

Chief McQuown has notably represented the department as a speaker to civic, service, and fraternal organizations, having lectured extensively in seven States on police community relations and police professionalism.

In addition to his outstanding contributions to the people of Los Angeles as a career police officer, Chief McQuown has exemplified continuing commitment to his fellow man by his years of dedicated devotion to the Masonic Order and most notably, the Shrine of North America.

In this capacity, he is currently or has been: Associate Guardian of Jobs Daughters, Associate Patron of the Eastern Star, president of the Shrine Directors Association of North America, and writer for the Al Malaikah Temple monthly paper. He has received the Bob Hope "Thanks for the Memory Award" for his tireless efforts on behalf of crippled children.

In 1973, Chief McQuown produced a slide/sound history of the Shrine which is being shown in southern California and is to be presented to the National Convention of the Shrine of North America.

MINERALS POLICY AND AMERICAN SECURITY

Mr. STEVENS. Mr. President, I expressed my concern about the minerals shortage this country is facing last month on the floor of the Senate. I have recently had brought to my attention a speech by my distinguished colleague from New Mexico, Senator DOMENICI. I believe his remarks and suggestions merit the attention of this body. Therefore, I ask unanimous consent that his speech, "Minerals Policy and American Security," be printed in the RECORD.

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

MINERALS POLICY AND AMERICAN SECURITY

Let's start with a basic fact: this nation has become distressingly dependent on foreign minerals and raw resources. We imported in 1973 more than 25 per cent of 30 vital minerals and oil and gas raw materials. Our magnificent industrial machine runs on the materials provided by a range of foreign nations with varying political and social ideologies, some quite at odds with American concepts. This may shock few of you here, because you are professionals in your fields. You are used to dealing with these facts of life every day. But perhaps I may be able to shock you with this concept; there is a wide body of opinion in this nation that believes we could soon be prey to a minerals embargo similar to the oil embargo we just suffered.

Let me make it clear: no one is ready to predict that next year all the producers of bauxite are going to get together and decide to withhold their product for more money. But just three months ago Guinea called a meeting of other major bauxite producers and importing countries to discuss policy. That government is bluntly "leftist" in quality. Two months ago Zaire and Zambia met to develop what they called "a common front" to fight for the highest possible prices for Africa's natural resources. What must concern us in this nation, as political leaders and as people involved in finding, developing, and producing minerals is the lack of a coherent and positive minerals policy in this nation that will lead us to self-sufficiency in most minerals in the next two decades. If we don't develop this self-sufficiency, we could see the rise of minerals-producing cartels devoted to maximizing their profits to such an extreme degree that grave international diseconomies could result.

Just for the record, let me outline the state of our dependency right now in minerals:

This nation imports 100 per cent of four platinum group metals, mica, chromium and strontium. We import 98 per cent of our cobalt, 96 per cent of our aluminum, 95 per cent of our manganese, 86 per cent of our titanium, 77 per cent of our tin, 74 per cent of our nickel, and on and on. Fully 80 per cent of this world's copper exports, by the way, come from Chile, Peru, Zambia and Zaire. Although America imports only 18 per cent of her copper, that percentage will rise.

Think about an America without iron—we import almost 30 percent of the iron we use. Some of you here are aware that Algeria has called for a United Nations conference to discuss raw materials and the needs of developing countries that produce most of them—iron included. That meeting is unabashedly an attempt by the producing nations to form marketing groups to control the sale of their products. Right now we are confident that such an attempt will fail. We are told by very bright men that these producing nations are so dependent upon the revenue produced by their sale of raw materials that they must export to us. They also argue that these nations are so diverse that they could never get together and form a cooperative venture. I have two answers to those arguments. One, time changes all things quickly, and greed changes things even more quickly. Governments in these developing nations will change, common interest will prevail. We cannot depend upon our position as biggest customer to insure that we will always get what we need when we need it. My point then is this: despite our relatively secure position now, the future could prove to be catastrophic for this nation unless we move right now, not 10 years from now, to develop policy and maximize minerals production.

Here's what I propose we must do to protect our economy and the American people:

In the next few weeks, I will introduce a bill to establish a Council on Mineral Resources. This Council will be responsible for coordinating the policy spelled out in the Mining and Minerals Policy Act, so that we have a clear understanding of what we are striving for. Currently, information about our minerals needs and resources is scattered among a number of agencies. This Council will provide a government organization to gather information for the public and private sectors. It will establish an organization to provide a factual basis for formulation and implementation of our minerals policy. As you know, we did not have independent facts available to us during much of the energy crisis. My proposal would insure that during the impending minerals crisis we do have such an independent source of information.

Reevaluate the whole question of depleting our stockpiles of key defense materials. I have spoken out about the copper stockpile depletion and will soon speak out again in the Senate. But the situation in tin, aluminum, tungsten, lead, manganese, cobalt, nickel and chromite is the same: we have depleted our holdings during the past seven years. We don't know how soon we may need these holdings. But we all know that we will need them someday.

We must reduce demand for virgin material. That means we must move toward monitoring and control of wasteful and nonnecessary use.

I believe we must enact my legislation calling for a maximum technological use of recycling and energy development from recovered materials. I have hopes that my bill, in some form, will pass the Congress by next year. It will be expensive to reach this goal, but not nearly so expensive as the $5 billion we spend annually to bury and burn our garbage.

We must increase production of scarce minerals by full development and use of new techniques.

We must move toward increased recovery of seabed minerals, such as manganese.

We must use our great scientific brainpower to develop "substitution methods" in which plentiful minerals can be used instead of scarce minerals in industrial processes.

New Mexico, of course, has an enormous stake in the whole field of minerals and oil and gas. We are blessed with many natural resources needed by our fellow Americans. Oil, gas, coal, copper, zinc, and, of course, potash, are just a few of our riches. Right now, mining is the strongest sector in this state's economy. It outshines every other sector by far.

Mining's $100 million in taxes and royalties to the state annually have sent thousands of New Mexico children through public school. Two years ago minerals production reached the $1 billion mark in the state. I know that our colleges and universities are working with private industry to try to increase these figures, to employ more New Mexicans. But we are not doing another important thing we must do; we are not yet telling the story of mining to our citizens.

Basic mining employs only about one percent of U.S. working people. Basic metallic production uses less than three-tenths of one per cent of the U.S. surface area. Most mineral activities are in remote and far removed geographical areas. These are the reasons that too many citizens don't realize how vital mining is. We are now a "have-not" nation in many minerals. Our citizens don't realize this, nor do they realize the importance of minerals production, nor do they realize that foreign nations, some of whom are not friendly to us, control our minerals destiny. We should not expect that all Americans know these facts; they have other jobs to do. But I fear that too many leaders don't know these facts. I would ask you to help me get the message out. I ask you to be activists in telling the minerals story. If we do our job right, then we can move toward my dream of an overall national minerals policy and self-sufficiency. If we don't do our job right, then someday American steel mills may stand cold, out of iron; American farmers look at barren fields, without enough fertilizers; and the American people may have to face a world of scarcity and deprivation. I think we have the means to avoid such a future, if we will begin now, while we have time, to do the job we need to do.

In closing, let me reassure you and the rest of my friends in the state. I'm not calling for a rape of the landscape. I don't want to see more Gillete, Wyomings; I don't want the precious environment we all value so much lost in our rush toward independence. I think we can develop self-sufficiency in minerals and oil and gas, and still restore and protect the landscape. It will take compromise and good will on all sides. But perhaps we will find that adversity brings us closer together again, and that the minerals and energy crises are long-term blessings in disguise.

Thank you.

NO ALTERNATIVE TO NATO

Mr. TUNNEY. Mr. President, few congratulatory messages were sent to NATO on its 25th anniversary. The event was

celebrated quietly, with a simple flag-raising ceremony at NATO headquarters outside of Brussels and with one speaker, NATO's Secretary General Joseph M. A. H. Luns. Joseph Luns' speech dwelt more on the troubles besetting NATO than on its achievements, as did most news commentaries reporting the event. Papers ran headlines such as "Unhappy Birthday to NATO," "Fading Prospects of the NATO Alliance," or "NATO: Trouble at Twenty-Five."

That NATO is indeed in trouble cannot be denied; but that this should be the case is not in the least surprising. The world into which NATO was born and was designed to defend differs radically from that in which we now live. NATO was born out of the fear that Soviet aggression would spread from Easttern to Western Europe. When the alliance was founded, Albania, Bulgaria, Rumania, Poland, East Germany, Hungary, and Czechoslovakia had fallen under Communist domination; Greece and Turkey were threatened. The Berlin blockade was jeopardizing the freedom of that city and the role of the Western Powers in the Government of occupied Germany. Western Europe's ability to withstand a possible attack was minimal. The idea of a mutual assistance treaty and a grand alliance, to be underwritten in large part by the United States, was envisaged and on April 4, 1949, the North Atlantic Treaty was signed in Washington by the United States, Canada, Britain, France, the Benelux countries, Denmark, Iceland, Italy, Norway and Portugal, Greece and Turkey acceded in 1952, West Germany in 1955.

Today, the fear of Russian military aggession has receded. The nature of the threat that prompted the birth of NATO is perceived to have changed. Confrontation has given way to an era of negotiation in the hope that a modus vivendi between East and West can be achieved. Most Western nations are now actively pursuing, either jointly or separately, policies of détente and cooperation with the Soviet Union. Yet, although it may be said that we have emerged from the Cold War and that a relaxation in tensions has taken place, no one can safely say that an era of true détente has been reached. The Warsaw Pact countries' invasion of Czechoslovakia in the summer of 1968 and the Mideast War of October 1973 are sharp reminders of this fact. Nor can anyone ignore the impressive build-up in Soviet military capabilities which has continued in eastern Europe as well as along the China frontier.

The changed environment—this betwixt and between stage in which we now find ourselves, has led to considerable confusion over NATO's present role and purpose and is responsible for many of the strains now afflicting the Alliance. Yet it should not be forgotten that the security afforded by NATO has helped to enable the West to engage in policies of détente with the Soviet Union. In the words of the Harmel report on the Future Tasks of the Alliance, published in 1967:

> Military security and a policy of détente are not contradictory but complementary. . . . The ultimate political purpose of the Alliance is to achieve a just and lasting peaceful order in Europe accompanied by appropriate security guarantees.

NATO has succeeded in maintaining peace in Europe over the past 25 years and has played a vital role in the quest for a lasting one.

More disturbing perhaps to the future of NATO than the changed nature of the external threat has been the change which has occurred in transatlantic relationships since 1949. Thanks to the protective shield provided by the existence of NATO, Western Europe is no longer the collection of weak, destitute, war-torn countries it was 25 years ago. But here again we find ourselves in a transitional phase which has caused much friction and misunderstanding on both sides of the Atlantic. Whereas Western Europe has achieved economic prosperity, it is still lagging in political and military strength. The imbalance between Western Europe's economic strength and its political and military weakness has been a source of frustration among Alliance partners. Western Europe's new prosperity has led to endless calls for a more equitable sharing of the defense burden within the Alliance. Rivalries over trade and monetary policies, areas in which Western Europe can now make its weight felt, have had repercussions within the Alliance. Western Europe's failure, to date, to unite politically has disappointed the United States, which had hoped that a united Europe would emerge from its regional preoccupations and assume more world responsibilities.

It is distressing to think that NATO could fall victim to its own success. Indeed, we all look forward to the day when NATO will no longer be necessary, when Western Europe will be strong politically and will be able to play a role on the world scene commensurate with its potential strength, and when we will have achieved a true détente with the Soviet Union. But that day has not arrived. Until then, I do not see any alternatives to NATO.

Deprived of the U.S. nuclear shield, Western Europe would face two choices, neither one conducive to a genuine détente. Western nations could either seek accommodation with the Soviet Union, which from a position of weakness, would be on less than favorable terms, or they could attempt to build an independent Western European defense. A defense system based on the French and British nuclear deterrents, however, presents another set of problems. It would require centralized control by some all-Western European political authority and would have to include West German participation on a greatly increased scale. Even if undertaken, it could not match the overall military power of the Soviet Union. Do we want a proliferation of nuclear weapons? Would it be in the interest or world stability? Would the Soviet Union accept a German finger on the nuclear trigger? It seems to me that these alternatives might impede détente rather than promote it.

The effort required of NATO to adapt to the impact of détente as well as to the changing relationships within Europe and across the Atlantic is indeed a tremendous one, but I am confident that NATO will prove equal to the task. I am confident because, when all is said and done, the Alliance is still in the fundamental interest of the United States and our West European allies. NATO has weathered many crises before, and this present crisis will not be the last one. However, by gaining a better understanding of the changes which have occurred in the world in the past 25 years, and NATO's role in them, I believe we will be able to adopt a more patient attitude toward our crises, and work more constructively toward their resolution.

ARTICLE IN FRENCH MAGAZINE REALITES POINTS OUT VETERAN FRENCH JOURNALIST'S DECEPTION BY HANOI GOVERNMENT

Mr. HELMS. Mr. President, the French magazine, Realites, is a well-respected publication widely read in intellectual circles both in France and throughout Europe. In the September 1973 edition of Realities, there appeared an article on the Vietnam situation, written by British-born writer Oliver Todd. Mr. Todd is a long-time associate of Le Nouvel-Observateur, a leading left-of-middle French weekly, and is a contributor-editor for Newsweek magazine. As Mr. Todd states in his article, he is no newcomer to the Vietnam situation, nor is he one of those observers who has made assessments on Vietnam from afar or on the basis of a few short trips in the presence of one of the combatants. Rather, he has wandered throughout the north and the south of Vietnam for nearly two decades, maintaining uninterrupted contacts with people on both sides of the conflict there.

What Mr. Todd has to say about the situation in Vietnam is important. Especially is this true with regard to the ongoing deception by the Hanoi government of journalists from around the world, and including many from this country. If, as this article points out, we in the United States are not getting the truth about the situation in Vietnam, then how can we be expected to make enlightened, indeed crucial, decisions affecting the lives of millions of human beings in Vietnam?

Mr. President, Mr. Todd does not write this article from a viewpoint favorable to the Saigon government; in fact, far from it. Yet, though no friend of the Saigon government, Mr. Todd does have the intellectual honesty to point out that he has been deceived by Hanoi. In his article, he attempts to set straight some of the deceptions and lies that have been reported faithfully as factual news stories.

While I do not agree with all of Mr. Todd's conclusions regarding the current situation in Vietnam, I admire his attempt to correct some of the false statements that have been made in the past about conditions there.

Mr. President, so that our fellow Senators may have the actual facts about the current situation in Vietnam, throughout the next several weeks I will be placing in the RECORD factual data on the

numerous issues that we in the Congress will be facing in the coming months regarding Vietnam.

Mr. President, I ask unanimous consent that the September 1973, Realites article by Oliver Todd entitled "How I Let Myself Be Deceived by Hanoi," 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:

HOW I LET MYSELF BE DECEIVED BY HANOI

(By Oliver Todd)

"David poised against Goliath, the 'pure' people of Hanoi and the *Maquis* against the 'corrupt' of Saigon, the standing-up of a nation of peasants, armed with guns, against the armada of the Pentagon." Here are some of the biting views and passionate reactions generated by the Vietnam war among the liberal circles—especially in France—without anyone taking his time to submit these *clichés* to the test of realities. I do not pretend to be a "Vietnamologist," but, because I have wandered through this country from North to South and watched closely the events in Vietnam during almost two decades, because I have visited the bombed villages in the North as well as the paddy-fields in the South and the areas still under the control of the National Liberation Front (NLF), because, in the lobbies of the negotiating rooms in Paris as well as in Indochina, I have maintained uninterrupted contacts with people from all sides, from the Communists to the Americans passing by the followers of the Saigon regime, the Buddhists, the partisans of the "Third Force," etc., I think I have acquired a direct, a true-to-life knowledge of the Vietnam problem, when most of observers have either assessed the situation from a remote place or made only very short trips on the spot and often in only one of the two sides in presence. Recently, a long journey in the Vietcong *maquis*—where until now Western journalists have ventured for no more than 48 hours—coming after a new visit to Hanoi, has enabled me to complete the puzzle, the pieces of which I have been trying to assemble for years.

A PIECE OF PUZZLE

It was in the province of Camau, at the southernmost part of Vietnam, that I discovered the true nature of the National Liberation Front. During almost two weeks, I roamed over this "Liberated" zone, where only townships and communications axes are controlled by Saigon troops. I was greeted and guided during all of this time by the people from the Front, who did their best to make my task easier, following obviously for this matter orders received from the top: the objective of this "open door" operation was to administer the proof, in contrast to the Saigon line, the partisans of the PRG (Provisional Revolutionary Government) are well dug-in in their zone.

This certainly was the case. But, on the same occasion, I came to realize how much the "pluralism" of the Front is far from fitting into reality. The distinguished old ladies and the decorative monks who were introduced to me as Front leaders in order to convince me of the fiction, could not create the illusion. And when I mentioned the "Third Force" to NLF cadres their sudden silences and their skepticism convinced me that they did not pay much importance to the "Third Force" in their plans for the future. In the Camau area, pictures and statements of Ho Chi Minh could be seen anywhere, but there was not a single reference to the leaders of the Front and the PRG. Here Mrs. (Nguyen Thi) Binh seems to be a remote figure. Besides, I suspect that her visits to the combatants were much less frequent than what her associates wanted us to believe: when, between two negotiating sessions at Avenue Kleber she left Paris "to visit the *maquis*" via Hanoi, the difficulty and the length of communications between North Vietnam and the "liberated zones" in the South, just forbade—if only for lack of time—Mrs. Binh to realize everytime such a performance.

The truth is that the Front is a monolithic Communistic body in which the non-communist elements have as much substance as the Agrarian Party in East Germany. Also, *Maquisards* think only in terms of reunification with the North and relentlessly come back to this theme. Their other favorite subject of discussion is the "re-education" of city residents in the South, a task they intend to tackle, as soon as a general election—they are certain to win in a landslide—gives them the power in Saigon. Yet, nothing is less sure than this electoral triumph. The offensives of 1968 and 1972 have left bad memories among the urban population, traumatized by the atrocities committed by the guerillas who, notably in Hue, murdered without any justification low-ranking civil-servants and simple civilians. It can be understood therefore that, in the cities of South Vietnam, people do not trust the Front and do not feel any desire to fall in its arms.

The members of the maquis are convinced of the contrary, victims of their ignorance of "South Vietnamese realities" that they pretend to take into consideration. How will they be able to assess them correctly when they are living in a closed-circuit, in the exaltation of their beliefs, and the objectives which they are fighting for, their such exclusive sources of information being Radio Hanoi and Radio "Giai Phong" (Liberation), the broadcasting station of the PRG? In every communist regime, actual history is discarded in favour of the history in the making, what is desirable is taken to be the possible. It is the same with the communists in Vietnam. To that situation, one should add the legacy of secret societies set up over the years in the Indochinese peninsula to fight against foreign invaders: in their own way, the men of the Front are following that tradition. In short, they live enclosed in a world folding on itself, linked to the communist regime in the North by an umbilical cord symbolized by the fact that in the PRG zone, watches are adjusted to the Hanoi time, one hour ahead of South Vietnam's.

SCHIZOPHRENIA STRUCK

To understand the implications of this relationship, let it be said that North Vietnam is relentlessly advocating a rather simplistic form of marxism. The Vietnamese language, very repetitive in its character, emphasizes the incantation side of this Stalinist rhetoric which appeared to me, during my last trip, to be frozen more and more in an "integrist" catechism.

First credo: the world revolution flies from victory to victory—no matter how much this assertion can go against the realities of the contemporary world. All but one of these is as follows: the recent Nixon-Brezhnev encounter has administered the proof that the USSR, fatherland of Communism, has her hands tied tight in the economical field. The North Vietnamese, closing their eyes on the facts, are hit with a schizophrenia—well-illustrated by this map of the world mounted in the centre of Hanoi on which the Socialist countries are represented by a large red spot which is supposed to extend indefinitely.

Second and third postulates: We, Vietnamese Communists, constitute the vanguard of this world revolution and we are always right—whatever the Russians, the Chinese and, of course, the Americans—and also smaller nations such as the Poles and the Hungarians whose representatives at the International Commission of Control and Supervision (ICCS) are bewildered by the immoderate pride of Hanoi and the Front—may say. This unreserved arrogance is understandable to some extent: at the time of decolonization, the party of Ho Chi Minh was the country's only notable force of liberation; more recently, it has succeeded in bending the United States. But from there to pretend that they have inflicted a decisive defeat to the U.S., there is quite a gap. The Vietnamese Communists jumped over this gap without any misgiving with the fourth article of their faith: we have achieved a total victory over the United States. Mr. (Henry) Kissinger is more accurate when he said: "When an army of guerilleros does not lose a war, it may be considered as having won it; when a conventional army does not win a war, it may be considered as having lost it."

It is false indeed to state that the U.S. had used all of its means on the Indochina theatre. The U.S. was far from having applied the strategy advocated by certain augurs, such as General Curtis Le May, who suggested "to bomb North Vietnam back to the stone age." Surely, U.S. pilots had destroyed many civilian installations—but for two main reasons only. On the one hand, the U.S. had obviously sought to score direct hits at the bases of North Vietnam's economy—I have more than once been shown such non-military targets as a pigfarm repeatedly visited by B-52s—and of such terror attacks, Washington has never given a full account. But on the other hand, the geography in the North is such that most dwellings, schools, pagodas and hospitals are located along the main roads: aiming from high above and looking forward to destroying axes of communication on which reinforcements to the South were being moved, the Americans were bound to cause more damage than they had intended to.

Two pilots held prisoners in Hanoi whom I interviewed several years ago once explained to me how their missions were carried out: "We came over the targets in full speed, dropped our cargoes and sped away as quickly as we came because the anti-aircraft defense was so thick we had the impression, in case we left the cockpit, that we could walk on a carpet of shells."

AUTOMATS

It is not at all my intention to swing from one mythology to another and to whitewash the U.S. whose behaviour in Vietnam was thoroughly disturbing. But, on their part, the Communists in Hanoi are not beyond reproach and they have applied methods to which their co-religionists in power in other parts of the world have accustomed us. The treatment inflicted upon American prisoners is precisely a good illustration. We now know, through statements by released pilots, that a good number of them had been submitted to "brain-washing."

As early as November 1967, I had had a foreboding of it while I interviewed two of them, Major David Everson and Lieutenant Thomas Joseph Barrett. When they entered the room where I had been waiting for them, they bowed deeply. This gesture, which took me by surprise, was part of a sort of coded language: it was meant to indicate that they were not in control of what they were going to tell me, so it was revealed by American prisoners after their return to America. Then, behaving like automats, Everson and Barrett delivered such stereotyped statements and in such monochord tone that they should have awakened further my suspicion. But, at that time, I attributed these symptoms to the conditions of their detention and to their compunction for having destroyed civilian installations.

Since then, testimonies provided by other prisoners have opened my eyes, especially the odyssey of this civilian from Canada, who served in South Vietnam as a technical assistant and was abducted by the Viet Cong during the Tet offensive in 1968. After his

release, it was learned that he had been kept in Hanoi for two years with one whole year locked up in an individual cell, in complete isolation. Brainwashing, moral or physical tortures are definitely in contravention of statements by the Hanoi leaders, namely Prime Minister Pham Van Dong who once praised in my presence the Vietnamese "humanism," citing as an example the fact that his government had never installed American POW camps near the targets bombed by B-52's.

Moreover, such bad treatments do not in any way match the assuaging picture of North Vietnam commonly circulated all over Europe, especially since Hanoi, did not resort to these techniques to extract military information but just in order to humiliate and degrade the captured pilots. Then, why should we make an exemplary country out of North Vietnam? In a closely-knit communist regime, I do not believe at all there can be torture "by accident," abuses committed by sadistic subordinates who act outside the supervision and without the knowledge of their superiors.

If I insist on the treatment of prisoners, it is because this problem means something essential to me, because it happens to be at the meeting point between the political and the human: it exposes the true nature of the Hanoi regime which one can perceive during one or several extended stays north of the 17th parallel.

A form of Stalinism *à la Confucéenne*, the country is structured by a pyramid of surveillance, the degrees of which are those of the traditional Asian community: the family, the ward, the hamlet, etc. Spying on a foreign visitor, discreet in the past, is now so very conspicuous and awkward that during my last visit, I was interrogated quite openly about the object of this or that encounter after I returned to my hotel. I do not think that this situation will change much with the return of peace or with any modification in the present leadership. Some observers would look for nuances, even differences between pro-Russian and pro-Chinese elements, but, in fact, the North Vietnamese leaders are all governed by the same Marxist nationalism which has been tested in the fire of the struggle for a long, long time and which constitutes the most durable cement. In brief, North Vietnam has become a kind of Communist Prussia in the heart of Southeast Asia.

WHO WANTS REUNIFICATION!

Of this country with its steel-like ambitions and nuanceless ideological intransigence—which are shared by the National Liberation Front—we have tried to make a white peace-loving and wisdom-loving dove. Liberals and left-wing intellectuals have tried to spread this picture, inspired by a kind of inverted racialism which the Chinese also have profited from. It is as though today the light must necessarily come from the Asians. This pro-Vietnamese behaviour comes in part from the anti-American feelings harboured by the intelligentsia and in part from a complex of guilt developed by the white race with regard to third-world countries.

Beyond that, it represents an escape from the complexity of internal French problems: rather than face them, it is easier to live a struggle by proxy by identifying oneself to the Cubans, the Fedayins or the Vietnamese. The Cubans having ceased to be "saleable" a long time ago, and the credibility of the Fedayins having been largely eaten up, the North Vietnamese have little by little capitalized on the noisy sympathy of the Left, without anyone asking any question about this propensity to make out of guerilleros the heroes of our times. Thus, the "Rousseauism" of the *Maquis* is mixing curiously with the dream of a return to nature. To that we should add, of course, the will to abstain from any criticism against a small country which was standing up to the strongest military power of the planet.

For all these reasons, we have raised North Vietnam on a pedestal. When I say we, I think most of the newsmen—of whom I am—who "covered" the Indochina war during the recent years. In our defence mention must be made of the traumatic impact of any story written from a North Vietnam constantly pounded by B-52 bombers. Very cleverly, the North Vietnamese limited the stays of correspondents in their country to one or two weeks, making it impossible for members of the Press to get away from the obsessions created by the air raids. Moreover, as, soon as they arrived in Hanoi, journalists were solidly taken in hands by the authorities and were allowed little freedom of movement outside the capital city, being all the time with an escorting officer and an interpreter. Thus, one can explain these dithyrambic articles in favour of the North Vietnamese, which were a great disservice to them in their messianic illusions. Through our compassion for their hardships, we forgot the true nature of their regime, its adherence to the communist camp in its most obscurantist aspect.

While the North was idealized, the South was crucified—the mythic pictures of the two Vietnams reinforcing each other. However, a few indisputable truths should be underlined here. On the one hand, contrary to the forecasts so often repeated, especially since the withdrawal of the American forces, Saigon did not collapse militarily. The army of President (Nguyen Van) Thieu is powerful and not disorganized at all. On the other hand, this regime is stable if it is not very popular; the Administration at its top level as well as the military hierarchy are not as corrupt as it was fashionable to assume, there exists a young generation of competent civil servants, very much aware of the necessity of the necessity of reforms. Thirdly, even if South Vietnam is not a model democracy, there is a pluralism of political parties; in Saigon and other big cities where public opinion is not easy to control, "Third Force" elements have achieved non-negligible results.

Finally—and this is without doubt the most important factor—the population as a whole does not long for reunification with the North under the latter's terms. During their military offensives in 1968 and 1972, the Communist had nurtured the hope that they would be welcomed with flowers and that a big popular uprising would tip the balance in their favour. They were cruelly deceived.

No doubt, there was a degree of admiration for the NLF for having stood up against the Americans and for the North for having withstood B-52 raids but there was fear for both, too. The population's feelings might be reminiscent of what Hong Kang bourgeois felt when they celebrated the explosion of the first Chinese atomic device without wishing to live under the Peking regime. The South Vietnamese people have remained faithful to their own way of life and their standard of living which has been considerably improved during the last several years. Urban residents have acquired a taste for the Honda civilization and do not want to return to that of the bicycle promised by the Communists.

As to the peasants in the countryside, their sympathies lie with those who allow them to till and to keep their lands and, of course, to own some land if they do not possess it yet. In fact, the land distribution programme implemented by Saigon has effectively taken place, it does not exist only on paper. To these earthly considerations, one should add the fact that the majority of the population is less than 30 years old; practically having always lived in a divided country, they have gotten used to it. Reunification therefore is not their primary concern.

In spite of their divergences, the Northern and Southern regimes have many points in common. Both are police states. The Saigon leader, who likes to be called "Comrade Thieu," borrows many things from his estranged brothers in Hanoi: forced participation by civil servants in the government party, omnipresence of political slogans of a style dear to the hearts of those living North of the 17th Parallel—i.e., "every citizen is a soldier." These constant exhortations demonstrate a profound relationship that can only spell more sufferings for the country. Indeed, the two systems are somewhat entrapped in the war, which has become their *raison d'être*. Military activities, directly or indirectly, is the source of living of an important segment of the population. The familiarity of death, notably in the North and in PRG areas, where one unceasingly says that every Vietnamese "must be ready to die so that the fatherland may live," has somewhat distorted the mind. Particularly the target of this exhaltation to war, the young people of Vietnam probably will be affected by it for many long years. As for the leaders, they do not appear to be ready for the political confrontation provided for by the Paris accords. On the Hanoi side, the final aim remains the reunification of the country under Communist leadership. In his will, Ho Chi Minh mentioned this goal several times and his successors are still obsessed with the feeling of having been denied the fruits of victory at the time of the Geneva Accords in 1954. Nineteen years later, avenue Kleber (in Paris), the Communist negotiators went out of their way to secure guarantees and, in spite of the solemn commitment with regard to the withdrawal of foreign troops—"all foreign troops" as Premier Pham Van Dong confirmed to me—North Vietnamese divisions have not left Cambodia, which serves as a rear base for Hanoi's ambitions. As for the presence of North Vietnamese troops in the South, the Paris Agreements did not even mention it. Meantime, in the South, neither Thieu nor the PRG is ready to play the election game although both sides claim to be sure of an electoral landslide. In consideration of the tiredness of the population, either side may fear that such a contest may simply be won by the Third Force. The latter, for the time being, appear to wait and see, unwilling as it is to show all of its cards long as Article 11 of the Paris agreement—individual and collective liberties—has not been respected.

LITTLE REJOICE

Such is the assessment that I think can be made of the present situation in Vietnam after my recent visits to the two parts of the country. There is little to be rejoiced, indeed, and I would willingly subscribe to the view of John Kenneth Galbraith when he stated that the fame of this small country should not have been allowed to exceed the modest proportions which everything appears to have confined it to, if a war—characterized by a quarter of a century of uninterrupted fighting and millions of dead—had not given it a renown so dearly purchased.

CAPT. JOHN H. ANTHONY

Mr. TUNNEY. Mr. President, I am pleased to advise my colleagues that Capt. John H. Anthony, president of Metropolitan Stevedore Co., Inc., of Wilmington, Calif., has been designated as the recipient of the 1974 Man of the Year Award for the city of Hope in recognition of his outstanding humanitarian contributions to his community and his fellow man. Captain Anthony has had an illustrious career in the maritime industry and it is with particular pride that

I enter into the RECORD some of his distinguished background.

Captain Anthony was born and educated in England. His 50-year career and romance with the sea began in 1924 when he joined the prestigious Furness-Withy and Co. as a cadet. He held increasingly important and challenging duties until achieving the rank of master in 1941, at the age of 32. Captain Anthony then left F-W for the duration of World War II, serving with distinction in the British merchant navy. He saw continuous action in the North Atlantic from 1939–41 and participated in the major Allied forces landings in North Africa and Italy, and made the infamous Murmansk-Archangel run. In 1945 Captain Anthony was appointed to command of troopships and finished his sea duty in that capacity in 1947. After World War II he returned to F-W and was promoted to superintendent in charge of Pacific coast operations, headquartered in Los Angeles.

Captain Anthony's fortunes were irrevocably tied to the United States when he became a naturalized citizen on July 29, 1954.

In 1955 he joined Associated Banning Co. as executive assistant to the president and succeeded to the presidency in 1964, and maintaining that post when Associated Banning was merged with Metropolitan Stevedore Co. in 1967.

In addition, Captain Anthony serves as president of the Marine Exchange, Los Angeles/Long Beach Harbors; president of the Los Angeles Steamship Association; member of the board of directors of Master Contracting Stevedores Association of the Pacific Coast; and a member of the board of directors of the Pacific Maritime Association.

Totally committed to his extensive and demanding duties in the maritime industry, Captain Anthony has generously given of his time and substance in humanitarian endeavors.

The city of Hope testimonial committee will hold its annual dinner on Friday evening, May 31 at the Long Beach Elks Club at which time Captain Anthony will receive this well-deserved tribute and I am certain that my colleagues join with me in commending Captain Anthony and saluting the worthy aims and goals of the city of Hope.

THE SIGNING OF H.R. 12253

Mr. BENTSEN. Mr. President, I am very pleased that over the Easter recess President Nixon decided to sign H.R. 12253, which provides for a liberalized guaranteed student loan program and for allowing local educational agencies to carry over unspent fiscal 1973 and 1974 education funds into the following fiscal year.

Since September, when I introduced S. 2478 to provide that families earning less than $15,000 need not submit to a "means test" to apply for guaranteed student loans, the controversy surrounding the student loan program has intensified.

The guaranteed student loan program, which is the only Federal aid program offering some assistance to moderate income students, had a projected 29 percent drop in loans this year; last year the drop was even more severe.

In my view, that drop was largely the result of language in the 1972 Education Amendments, which initiated the so-called means test for low- and moderate-income families. Because the test was complicated and poorly administered, students formerly receiving guaranteed loans frequently found themselves to be ineligible. Now, with the signing of H.R. 12253, that will no longer be the case.

The legislation provides that there need be no "means test" for families with incomes under $15,000 and wishing to borrow up to $2,000 a year. Considering the skyrocketing costs of a higher education today, that seems to be a fair way to resolve the difficulties caused by the 1972 amendments. Because of the action taken by the Congress and approved by the President, thousands of young men and women will find student financial aid once more available to them as they enter the fall semester of college.

The second provision of H.R. 12253 was contained in my bill, S. 2907, introduced in January of this year. It will allow thousands of local school districts to more effectively budget their funds both this year and next by carrying over any unspent funds into the next fiscal year. The Tydings amendment, which allowed such a practice in the past, had expired, and this new provision was necessary to avoid hasty and wasteful spending of funds that frequently become available to school districts late in the year. I received considerable mail from school administrators in my State about this measure, and I am most pleased to see it successfully resolved.

Mr. President, these education provisions are of very high priority in our efforts to pass domestic legislation during this year of stress. We must see that the Nation's business continues to be done, and the President's approval of these measures is an encouraging sign.

I would hope that the same constructive attitude will prevail in our deliberations on the Elementary and Secondary Education Act, surely one of the most significant education bills to come before the Congress in several years. Unfortunately, the early response from the White House to the Senate bill has been substantially negative.

During the next several weeks, when we debate and refine S. 1539, I would urge administration officials to cooperate with Members of the Senate who will be trying to work out the differences between the administration and Senate bill. In the past Congress has shown its willingness to negotiate and to receive the administration's views. That cooperation should be continued. Indeed, Mr. President, neither the administration nor the Congress should play politics with the education of our children.

We owe the American people a constructive attitude toward important legislation, even in the most trying times.

50TH ANNIVERSARY OF A RACE FOR LIFE

Mr. STEVENS. Mr. President, in January of 1925, the inhabitants of the city of Nome were faced with possible near annihilation from a diphtheria epidemic. The city and the surrounding villages were saved by the timely delivery of essential diphtheria serum. This delivery was made possible by the heroic efforts of man and dog in the famous diphtheria sled dog run to Nome. This run covered some 678 miles, taking just over 5 days in 50 below zero weather. Next year will be the 50th anniversary of this event, an event illustrative of the unique conditions and hardships that even now face Alaskans.

Mr. President, I ask unanimous consent to have printed in the RECORD an excellent article in the March 30 edition of the National Observer on this event.

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

A STIRRING RACE FOR LIFE

(By Lou Torok)

At first 6-year-old Richard Stanley's mother thought his illness was merely a cold; no need to bother the doctor. Then, as Richard's condition rapidly worsened, she sent for Dr. Curtis Welch. One look at the dirty-white splotches lining the feverish lad's throat told Welch that his vulnerable community was in imminent peril: Richard had diphtheria, a contagious, often fatal disease.

Welch's diagnosis started the clock on a frenzied race against time. It pitted 20 mushers and their dog sleds against the potential diphtheria epidemic that threatened 10,000 lives. And when word of it reached "the lower 48," millions of Americans waited in helpless fascination for the news bulletins that chronicled the mushers' progress across 674 miles of snow, storms, ice, and paralyzing cold.

[A report on Rod Perry and Fat Albert, The Observer's entry in the current Anchorage-to-Nome race, is on Page 6.]

The place: Nome, Alaska. The time: January 1925. Winter lay icily over the windswept tundra. The Bering Sea was frozen over. In its isolation, Nome might as well have been on the moon. No railroad had yet reached Nome; the nearest railhead was at Nenana, near Fairbanks, 674 miles east. A pilot attempting to fly serum in through that weather, in a poorly instrumented plane without de-icers, quite likely would have died trying. If Nome were saved, it would have to be saved by mushers and their dogs.

Two other factors made Nome's plight even more poignant.

The first was that diphtheria is likelier to kill children than adults. The diphtheria bacillus causes an air-blocking membrane to form over the mucous membranes of the mouth, throat, and respiratory passages. A child's larynx, being much smaller than an adult's, is more susceptible to total blockage, resulting in death. Moreover, even uninoculated adults may have partial immunity from having contracted mild, undiagnosed diphtheria earlier.

THE RELAY BEGINS

The second factor was that the indigenous Eskimo and Indians of northwest Alaska were not yet immune to white men's diseases. Welch was aware that in 1900 and again in 1919 whose villages had been wiped out by epidemics of measles and flu—diseases far less virulent than diphtheria.

And so, when he diagnosed young Richard's diphtheria, Welch acted immediately. He ordered a quarantine, but the next morning Richard was dead. Two Eskimo children died too. Welch's small supply of diphtheria antitoxin soon ran out.

Mayor George Maynard called the Nome City Council into session to organize the community against an epidemic. Diphtheria

antitoxin had to be found and brought in. If someone could locate the serum and get it to Nenana, the mushers could rush it relay-style to Nome.

News of Nome's predicament flashed over wire-service telegraphs across the nation. Stories about Nome crowded news about Prohibition, gangland slayings, and speakeasies off the front page. The '20's were roaring, but they hushed momentarily as each bulletin from Nome arrived.

The City Council had planned to obtain serum in Seattle for shipment by train from Anchorage to Nenana. But a supply of 300,000 units was located in the Alaska Railroad Hospital at Anchorage. There Dr. J. B. Beeson had it packaged and put on a train for Nenana.

At 11 p.m. on Tuesday, Jan. 27, 1925, the dog-sled relay began. "Wild Bill" Shannon, the first musher in the chain, lashed the precious 20-pound package to his sled and set off westward. His nine Malemutes strained at the harness in response to his urging to go faster, faster. Except for the Malemutes' barking and the swooshing of runners on snow, there was no other sound on the trail.

But there was, besides urgency, another sense. An experienced musher, Shannon knew simply by sniffing the air that the temperature was dropping fast. It was 30 below zero when he started. Now it was 35 . . . 40 . . . 45 . . . 50 below. On he rushed, mindless of the cold, until he handed over the cylindrical package of serum to Dan Green at Tolovana, 52 miles from Nenana.

While the relay teams were carrying the serum westward as fast as humanly possible, an act of incredible courage was being carried out from the other direction by Leonhard Seppala. Only 5 feet 4 and 144 pounds, Seppala had gone to Nome to make a fortune as a gold miner. Instead he earned the reputation of the world's greatest dog-sled racer. He won the first dog-sled race in Nome, in 1908, and in the ensuing years he raced 250,000 miles and won 43 silver cups and 8 gold medals. He once covered 102 miles by dog sled in a single day, carrying an injured comrade to medical help.

Sepalla did not know that a relay team had been set up. So, moved by the diptheria threat to Nome's children, he set out by himself to go to Nenana, pick up the serum, and bring it back—a distance of 1,348 miles. It was a superhuman undertaking, motivated only by a concern for human life.

As Seppala pushed eastward toward Nenana, the relay teams were challenging the limits of endurance in bringing the serum westward toward Nome. On Jan. 28 Dan Green handed the packages to Johnny Folger at Manley Hot Springs, having carried it 31 miles. Folger took it the 28 miles to Fish Lake in just over 3 hours, averaging an astonishing 9 miles per hour.

On and on the mushers went. From Folger the serum passed to Sam Joseph to Titus Nikoli to Dave Corning to Edgar Kalland to Harry Pitka to Bill McCarty to Edgar Nollner to George Nollner to Charlie Evans to Tommy Patsy to a man named Jackscrew to Victor Anagick to Myles Gonangnan to Henry Ivanoff. . . . From frozen hand to frozen hand the serum passed, itself frozen solid until it thawed in one of the relay-point shelters, only to freeze solid again out on the trail.

Seppala had come 169 miles from Nome when, on Jan. 31, he met Ivanoff, who was to carry the serum the 91 miles from Shaktolik to Golovin. Seppala had brought two teams of Siberian Huskies; one team rode and rested while the other pulled harness.

Seppala took the serum, turned his teams around, and mushed 84 miles before finally stopping at Isaacs Point, on the frozen shore of Norton Sound, to rest and feed the dogs. Although his dogs had slashed their feet on the sharp Bering Sea ice, Seppala nonetheless pushed on, face into a blizzard. He fully intended to carry the serum all the way to Nome—by himself.

But at Golovin, 78 miles from Nome, Seppala met mine owner Charlie Olson, an acquaintance who had driven his dogs out to meet Seppala. Wisely, Seppala turned over the serum to Olson and his fresh team.

Seppala had traveled about 260 miles, 91 with the serum, over the most hazardous part of the route.

It took Olson 5 hours to cover the 25 miles to Bluff, the next relay point. When he arrived, his dogs feet were bleeding badly and his hands were frozen.

CHALLENGING HUMAN EXISTENCE

It was 8 p.m. when Olson handed over the serum to Gunnar Kaasen, a miner whose six-year-old lead dog, Balto, was reputedly half wolf. Both Kaasen and Balto had been on one of Norwegian explorer Roald Amundsens Arctic expeditions. Kaasen had to wait two hours for the wind to die down enough for him to travel. Even then the 30-below-zero temperature and the wind produced a chill factor that challenged human existence.

Kaasen planned to turn over the serum to the last musher, Ed Rohr, at Point Safety, 25 miles from Nome. As he plunged on, the wind rose higher and higher. Ice and snow whipsawed Kaasens face. He could hardly see Balto, but he said later: "I gave Balto his head and trusted to him. He never once faltered.

In the pitch blackness and swirling snow, Kaasen drove his team past the shelter where Rohr was waiting. When he discovered his error he had no choice but to go on. Through the night Kaasen drove his team until finally, at 5:30 a.m. Feb. 2, he staggered into Nome. He could barely walk. He was nearly blind. Four of his 13 dogs were partly frozen. The serum was a canister of ice.

A FINAL TRIBUTE

But the serum *had* arrived—just 127½ hours after the first dog sled had set out on a run that usually took a month. Dr. Welch thawed the serum and administered it. It proved effective: Only one more death from diphtheria occurred. Nome was saved.

Later children in Cleveland, Ohio, donated $2,363.94 in pennies and nickels and bought Balto and Kaasens other dogs for Cleveland's Brookside Zoo. When Balto died after years of being idolized by Ohio children, his body was mounted and displayed in the Cleveland Museum of Natural History.

And in New York City, citizens donations paid for a Central Park statute of Balto that still stands—its nose rubbed smooth by the hands of thousands of children who have climbed it. The inscription on the statue says simply: "Endurance, Fidelity, Intelligence."

A SECURITY POSTURE FOR THE PURSUIT OF PEACE

Mr. GOLDWATER. Mr. President, from time to time, it has been my pleasure to offer for the RECORD papers by the Association of the U.S. Army. One that is rather recent that covers the general subject of our military position in the world is one that I think my colleagues should read. I ask unanimous consent, therefore, that the paper entitled "A Security Posture for the Pursuit of Peace" be printed in the RECORD.

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

A SECURITY POSTURE FOR THE PURSUIT OF PEACE

INTRODUCTION

This is the season of the year when, within our democratic society, we make an effort to assess our problems and opportunities, both at home and abroad, so that we can establish our priorities for action and provide for them in our national budget. The furious and unremitting pace of world affairs makes calm judgments of conflicting options most difficult. Security threats, political ambitions and unilateral actions of other countries, as well as economic pressures, impact constantly on our cumbersome decision-making process.

In recent months and weeks, we have seen again some rather dramatic examples of just how inextricably interwoven the affairs of this nation are with those of the rest of the world. These examples have again highlighted how essential our trade all over the world is to the economic welfare and progress of our nation. We have been reminded again that factors which affect world peace and stability have a serious influence on our well-being and what we are able to do.

To most of us, the pace of world affairs appears to have accelerated in recent times. Perhaps because so much has taken place that has affected our daily lives and the operation of our government, we can see more clearly how these will influence materially the budgetary proposals which the Congress is considering.

The energy crisis would, of course, be the most dramatic example. But there are others which, in the long view, may be even more important. To what extent, and how quickly, can we restore cooperative relations and efforts throughout all of the NATO community? A very basic and most important question. The implications in the progress, if any, in the reduction of the arms race which may come out of the current second round of the Strategic Arms Limitation Talks could affect our future endeavors tremendously. Similarly, we will be greatly intrigued to see which paths are indicated by our somewhat diminished détente with the Soviet Union. We have a big stake in the successful establishment of a meaningful peace in the Mid-East and the Arab attempts to hold the industrial world hostage of the flow of oil. The potentials of an expanded dialogue with the Peoples' Republic of China under an umbrella of détente are yet to be explored.

In this dynamic world in which we live and upon which we are so dependent, we must insure that we have the strength and policies which will enable us to encourage progress and capitalize on opportunities. Strength equates in great measure with security—and security is not something we can trade for something else, for without security there is nothing else.

Secretary of Defense James R. Schlesinger, in the introduction to his first Defense Department Report to the Congress, philosophized briefly about one of the paradoxes of our world today:

"A policy requiring us to maintain strength and alliances while we are actually pursuing détente with the Soviet Union and the Peoples' Republic of China may appear incongruous to some. We have a long tradition in this country of arming with great haste when a war comes upon us, and disarming with even greater haste when the war is over; and we have tended, often, to view our relations with other nations in terms of absolutes—friend or foe, ally or adversary, cold war or détente. Unfortunately, the real world is more complicated.—Our experience in this

century has amply demonstrated that satiating our military establishment in wartime and starving it in peace time brings us neither peace nor long-term alleviation of the heavy burden of defense. In both blood and treasure, it will cost us less to maintain a reasonably stable level of defense effort until it is possible to achieve genuine mutual reductions in armaments."

Taking the historical perspective, Geoffrey Blainey contributes a worthwhile observation on this subject in his book, "The Causes of War:"

"The most popular vision of peace is of nations living independently, each respecting the rights and territories of others; and each belonging to a kind of brotherhood. The brotherhood of nations tends to be hierarchial and opportunist. Peace depends directly or indirectly on military power. While we observe the role of military power when it dramatically breaks the peace, we tend to ignore its role when it ends a war and preserves the peace. We thus conceal from ourselves the close relation between the causes of war and the causes of peace."

Defense budgets and forces exist only to support our national objectives and our foreign policy. They exist primarily to enable the national leadership to search for peace from a position of adequate, discernible and credible strength. It is this dynamic relationship between military strength and the pursuit of peace as a national objective that is not clearly understood.

This is a particularly complex period in which our government must make grave decisions, some of which affect the security of our nation. As a professional association, we feel it imperative for the American people to understand more clearly the basic issues most deeply affecting our country and its security posture. It is to this end that this paper is directed.

THE UNITED STATES IN WORLD AFFAIRS

Though our optimism about detente with the Soviets was jolted by our confrontation in the Mid-East, we continue discussions with the Soviets which we hope will contribute to true reduction in arms, troops and tensions. A continuing closer exchange with the People's Republic of China provides also the opportunity to develop a more viable and visible Far Eastern policy for our country.

EUROPE-NATO

We continue to be a "Europe First" nation—and for a variety of self-interest reasons. Not only do the roots of most of our people go back to European soil, but our commerce and intercourse has been of the closest over all the years of our history. Western Europe accounts for over 25% of the world's gross national product and, as a consequence, is a major and crucial trading partner of ours. The NATO alliance, which has been the most viable pact of its kind in the history of the world, has been a living pledge of the terrors and hardships mutually shared in World War II. So the antecedents of our relationship with Western Europe transcend even defense considerations which are, nonetheless, crucial to our current considerations.

There is much ferment in Western Europe these days, and events of recent months have exposed our Atlantic alliance to the most severe strains since its inception. The energy crisis focused on the fragility of the relationships between nations in times of economic stress.

In addition to the stresses brought on by the energy crisis and the continual intransigence of France, there are also on-going negotiations that involve Western Europe and vitally affect our interests in this area as well.

If we are sincere in our avowed intention to reduce the prospects for conflict, we must give the Mutual Balanced Force Reduction talks which are now taking place in Vienna a chance to prosper. These talks, which opened in January of 1973, offer the possibility for substantial reductions in the Warsaw Pact and NATO forces which confront each other in Central Europe. Such a reduction of forces would be a major step forward in achieving a stable relationship that would materially lessen the risks of future hostilities. This, in turn, could lead to other arms control measures. A unilateral reduction of U.S. forces in Europe at this time would eliminate any incentive for the Soviets and the Warsaw Pact nations to negotiate for that which they can get for nothing.

Similarly, the dialogue which has been established in the Conference on Security and Cooperation in Europe needs to be nurtured. This important conference at Geneva, involving 35 nations, is bringing into focus principles of interstate relations which could lead to greater East-West economic cooperation and on into other fields. Again, these talks continue to progress because we help provide a balance of power that fosters negotiation.

Any successful conclusion of either of these two conferences overshadows completely the comparatively minor reduction in costs, if any, that would result from reducing our forces in Europe.

In a recent article, General Andrew J. Goodpaster, the Supreme Commander, Europe, reminds us of the objectives of the NATO alliance. He cites four: deterrence, defense, solidarity and détente.

He points out that deterrence is not limited simply to the prevention of an overt military attack by the Soviet Union and its Warsaw Pact allies against the area of Western Europe. Deterrence also includes dissuading the Soviets from indirect military pressure.

For defense, he says: "We must convince the Soviet leaders that our defense could impose costs on them that would far outweigh any expected gains."

The objective of solidarity has recently been under great strain. But, as General Goodpaster so rightly points out, solidarity—collective action and unity in the alliance, is essential to its viability.

And, of course, détente—the relaxing of tensions, is especially crucial in these days of serious negotiation. General Goodpaster makes the point that "a meaningful and durable détente must be based on reducing and removing the causes of tension, while at the same time preserving the security, the integrity and the values of our societies. A reduction in tensions, if it is to be meaningful, must be coupled with a reduction in the dangers which beset us—dangers which derive from the massive forces of the Warsaw Pact arrayed against us. A reduction in tensions without a reduction in these dangers could give our people a false sense of security and thereby actually increase the risks and dangers in our position."

The existence of a stable, free and prosperous Europe is basic to the economic well-being of this country. That it exists today is in great measure because of the consistent non-partisan effort we have put into the NATO alliance over the past quarter of a century. History records no more successful venture. Not only has Western Europe been completely rebuilt from the devastation of World War II, but along with the material prosperity which we have both enjoyed as a result, free political institutions have flourished.

Our country has benefited greatly from this arrangement. The favorable climate for American business in Europe has been a strong buttress to our economy. And the stationing of our troops in Europe gives the United States a political influence that it could obtain in no other way.

The Administration has supported these views in its budget presentations for FY75. As an answer to some of the criticism which has been voiced about our continued European presence, Secretary Schlesinger articulated two fundamental security objectives which he will pursue:

"First, the construction of a satisfactory basis for maintaining an adequate overall NATO security posture for the long haul, including balanced forces, with rational missions credible to our adversaries and ourselves.

"Second, an equitable adjustment of burdens to put U.S. participation in NATO, and the United States military presence in Europe, on a solid, durable foundation acceptable to both the United States Congress and public, and to our allies." The press is already reporting the successful completion of a new two-year agreement with the West German government on this latter objective.

MID-EAST

We applaud the rigorous efforts now going on to establish a peaceful settlement between the Arabs and the Israelis. But even with the implementation of such a peace and the reopening of the Suez Canal, our interests will continue to be heavily influenced by what is going on in that whole area. We have a big stake in assuring adequate petroleum supplies for Western Europe, Japan and our other important trading partners. Japan imports more than 85% of her oil requirements and Western Europe as an entity over 80%. Incidentally, oil may be only the first of many vital resources used as strategic weapons against us. With Mid-East oil so essential to the very economic existence of so much of the industrial world, the temptations for serious mischief will be difficult to curtail.

The opening of the Suez Canal improves materially the Soviet Navy's ability to get far more mileage out of its steaming time and will undoubtedly result in greater activity for her in both the Mediterranean and the Indian Ocean. The Soviets themselves have long recognized the desirability of greatly expanding their influence in that area and can be expected to implement that desire in a variety of ways during the years ahead. Thus it is clear that we will be facing tests of will and resolution in the Mid-East for some time to come. Meaningful military strength appropriately displayed could go a long way toward keeping such adventures in bounds.

ASIA

In his report to the Congress, Secretary Schlesinger made this brief summary of his long view of our defense requirements in the Far East: "We see the most useful role for the United States forces in the Pacific as providing a strong measure of visible support for our allies, a credible deterrent to those who might risk new hostilities, and a general umbrella under which our allies can pursue negotiations and internal development in an environment that encourages cooperation and discourages hostilities. Therefore, our present plans call for maintaining forward deployments in the Pacific."

This policy is encouraging to have on the record. Since 1969, significant reductions in the size of our forces in Asia have taken place. Our withdrawal from Vietnam, our establishment of greatly improved relations

with the People's Republic of China, along with the drawdown of our forces elsewhere in Asia had been perceived by some Asian observers as presaging a greater withdrawal from the Western Pacific and a diminution of our interests there.

Actually, our interests in Asia are increasing. There are fourteen major independent countries east of India and west of Hawaii containing more than two-thirds of the human race. Most of these are dynamic countries whose growth rate is outstanding. They are well on their way to becoming one of the largest markets in the world. We will be dealing with them on an ever-increasing basis at whatever level the wisdom of our policies permits.

But we do need to maintain credible defense policies and postures in that area, where our principal objective is stability.

Our relationship with Japan, our second largest trading partner, has undergone some rather severe buffeting in the past two or three years. Most recently, of course, Japan discovered that friendship and alliance with the United States was no guarantee against Arab oil blackmail. On her own, Japan had to work out a separate agreement with the Arabs to insure an adequate supply of petroleum, the lifeblood of her booming economy.

Having been committed by the fortunes of war to the care and protection of the United States, Japan relies entirely on us for her security. They were astonished, along with the rest of the world, when the President, in July of 1971, surprised everyone by reversing our hardline anti-Communist policies, with the announcement that he would go to Peking and Moscow. Japan has adjusted to this new arrangement by concluding her first formal trade pact with the PRC. Two devaluations of the dollar by the United States and our imposition of a 10% surcharge on foreign goods have added a further measure of strain on our intercourse with Japan since we are her largest customer. The Japanese must now decide whether or not to entrust their future to a special relationship with the United States or to cut loose and make new arrangements with the rest of the world.

Elsewhere in Asia, the prospects are varied. Peace is not in sight in Cambodia, Laos or Vietnam. But neither have the Communists succeeded in establishing a takeover in any of these beleaguered countries.

The South Korean forces appear to be gaining in strength and self-sustenance. It is the considered opinion of most that they could handle alone any unaided attempt of the North to invade their territory. Certainly their economy is expanding greatly without interference from the North.

Malaysia, Indonesia and the Philippines need more time free of outside pressures to develop their potentials.

There is no greater frontier for human progress and development than in this dynamic Pacific basin. Its true importance to us and to the world is only beginning to be understood. Here we must be certain that we maintain a fully credible defense. In this area particularly, we see clearly the potential defeat of our interests, without armed conflict, if our military posture and perceived intentions are not credible.

Secretary Schlesinger has summed up the role of the U.S. in world affairs this way:

"The United States today, as opposed to the period before 1945, bears the principal burden of maintaining worldwide military equilibrium which is the foundation for the security and survival of the Free World. This is not a role we have welcomed; it is a role that historical necessity has thrust upon us. The burden of responsibility has fallen on the United States and there is nobody else to pick up the torch if the United States fails to carry it."

In this look around the globe, we have not suggested that any of the troubled areas mentioned is a direct threat to our homeland, but rather they threaten our freedom of action or our economic well-being. This has been the type of threat that has involved us in most of the conflicts in which our country has been engaged. As General Abrams so aptly pointed out in his recent posture statement to the Congress, the issues involved prior to World Wars I and II, Korea and the Gulf of Tonkin or the mining of Haiphong Harbor were not threats to our national survival, but whether or not American freedom of action was threatened seriously enough to warrant the use of military force.

STRATEGIC FORCES

Our defense budget reflects our growing concern with the speed with which the Soviets have been catching up with the United States in strategic nuclear weapons. They have built up their ICBM force at a rapid rate over the past several years, and they are completing construction of more hardened silos and developing newer type missiles of greater throw weight. While they have stayed within the technical bounds of the agreements which grew out of SALT I, they certainly have viewed the spirit of those talks in a different light than we had hoped.

UNITED STATES AND U.S.S.R. STRATEGIC FORCE LEVELS

	Mid-1973		Mid-1974	
	United States	U.S.S.R.	United States	U.S.S.R.
Offensive:				
ICBM launchers [1]	1,054	1,550	1,054	1,575
SLBM launchers [2]	656	550	656	660
Intercontinental bombers [3]	496	140	496	140
Force loadings weapons (warheads)	6,784	2,200	7,940	2,600
Defensive: [4]				
Air defense:				
Interceptors [5]	559	2,800	532	2,600
SAM launchers	481	9,800	261	9,800
ABM defense launchers		64		64

[1] Excludes launchers at test sites.
[2] Excludes launchers on diesel-powered submarines.
[3] Excludes bombers configured as tankers and reconnaissance aircraft.
[4] Excludes launchers at test sites.
[5] These numbers represent total active inventory (TAI).

Their substantial nuclear-powered ballistic missile submarine fleet is presently the fastest growing element of the strategic threat. They have submarines comparable in size and fire-power to our Polaris-Poseidon force, and at their current production rate, the U.S.S.R. will deploy a force of this type larger than the size of our present similar force.

The Soviet intercontinental bomber force is much smaller than ours. They have one new bomber, the Backfire, in flight test. It is a supersonic machine with a variable-geometry wing and is capable of intercontinental missions. There is no indication of the quantities of these that will be produced.

The Soviets continue extensive deployment of aircraft defense and have continued their anti-ballistic missile (ABM) defense around Moscow. There have not been the significant improvements in their strategic defensive forces that have been noted on the offensive side.

A true strategic nuclear threat from the Peoples' Republic of China is estimated to be a few years off as of this time. It is possible that some small number of intercontinental ballistic missiles (ICBM) could be deployed by mid-1977.

Perhaps the most significant feature of our current defense planning has been the change in our strategic planning to give us what President Kennedy described as "alternatives other than suicide or surrender."

This need for options is more important to us now than at any time in our history, because of the growth in the capabilities possessed by other powers. Secretary Schlesinger highlighted in his report to Congress one significant aspect that pervades our strategic planning: *"These additional options do not include the option of a disarming first strike. Neither the U.S.S.R. nor the United States has, or can hope to have, a capability to launch a disarming first strike against the other, since each possesses, and will possess for the foreseeable future, a devastating second-strike capability against the other."* (Italic added.)

What has changed about our current strategy is the greater weight being given to flexibility in response and more options for our National Command Authority. It has popularly been referred to as a "counterforce" strategy rather than that of "mutually assured destruction" which has been the basis for our strategic nuclear strategy in the past.

Here is how Secretary Schlesinger describes it: ". . . If, for whatever reason, deterrence should fail, we want to have the planning flexibility to be able to respond selectively to the attack in such a way as to (1) limit the chances of uncontrolled escalation and (2) hit meaningful targets with sufficient accuracy-yield combination to destroy only the intended target and to avoid widespread collateral damage." Fortunately, our technological development in guidance accuracy will permit adding these options.

With this strategy in mind, as well as the momentum of the Soviets in the strategic offensive weapons field, the defense budget request proposes continuing improvements in our Minuteman missile force, including more MIRVs (Multiple Independently Targeted Reentry Vehicles) and improved accuracy; hardening of missile silos; and completing the conversion of our current nuclear submarine fleet to Polaris A3 missiles. We will also continue work on our Trident submarine and the C-4, 4000 nautical mile missile which should enter the force in FY78. In addition, we are working on a 6,500 nautical mile Submarine Launched Ballistic Missile (SLBM). Our B-1 bomber development program has been plagued with skyrocketing cost increases and, as a result, the program has been slowed. In the interim, we will continue modification on the B-52s to prolong their active status until the B-1 can be brought into the inventory.

Our one ABM site at Grand Forks, North Dakota, is due to become operational within the year. To insure that we do not fall behind the Soviets in this area, we must continue a vigorous R&D program. Our Site Defense program is intended to provide the rapid potential to upgrade our ABM defenses of Minuteman missile fields should that become necessary. It must be considered one of our urgent programs. Additionally, we must be sure that we are not caught short by technological breakthroughs, and need to continue our extensive advanced ballistic missile defense technology program.

SOME MAJOR STRATEGIC FORCES MODERNIZATION AND IMPROVEMENT PROGRAMS

[Dollars in millions]

	Fiscal year 1973 actual funding	Fiscal year 1974 planned funding	Fiscal year 1975 proposed funding
STRATEGIC OFFENSE			
Continued procurement of Minuteman III missiles, Minuteman silo upgrading and other related programs	816	730	758
Conversion of SSBN's to Poseidon configuration, continued procurement of Poseidon missiles and associated effort	698	313	192
Development, procurement, and military construction—Trident submarines and missiles	794	(25)1,435	2,043
Initiation of design for a new SSBM			16
Development of advanced ballistic reentry systems and technology (ABRES)	93	90	120
B-52D modifications	46	38	73
Continued development of new strategic bomber, B-1	445	449	499
Development of the bomber-launched and submarine-launched versions of the strategic cruise missile	53	14	125
Initial development of advanced tanker/cargo aircraft			20
STRATEGIC DEFENSE			
Continued deployment of Safeguard	599	341	61
Continued development of site defense	80	110	160
Development of advanced ballistic missile defense technology	93	62	91
Development and acquisition of the SLBM phased array radar warning system			50
COMMAND AND CONTROL			
Development and procurement of advanced airborne command post (AABMCP)	117	50	90
Development of Sanguine Elf system	9	13	13

Secretary Schlesinger has described the objectives of our strategic nuclear force as follows:

"Deterrence has been and remains the fundamental objective of our strategic nuclear forces. But what precisely do we want these forces to deter? Clearly, we expect them to forestall direct attacks on the United States; at the same time, however, we accept the equally heavy responsibility to deter nuclear attacks on our allies. To some extent, we also depend on the strategic forces to exert a deterrent against massive non-nuclear assaults, although we now place the main emphasis on U.S. and allied theater forces for that purpose. We also view our strategic forces as inhibiting coercion of the U.S. by nuclear powers and, in conjunction with other U.S. and allied forces, helping to inhibit coercion of our allies by such powers."

While we are having to respond to Soviet strategic arms growth at a faster rate than we had wished, it seems clear that the balance of nuclear terror is being maintained.

Because the Soviets have not slowed their strategic arms development to any extent, there has been much uniformed criticism of what we supposedly "gave away" in the SALT I (Strategic Arms Limitation Talks) agreements. It should be understood that the Soviets have not to our public knowledge violated the letter of SALT I nor the Interim ABM agreement that accompanied it. Nor is there any evidence, given Congressional resistance to greater spending in this area, that we would have any new weapons systems or, in fact, would have gone any faster on our present programs if we had not signed SALT I. We had hoped at best to show the pace of Soviet programs, but this has not happened. It is obvious until we can get a meaningful SALT II agreement, and the prospects seem meager at the moment, we have no choice but to continue these terribly expensive programs so that we may maintain the strategic safety of our nation, the viability of our allies and trading partners and the freedom of action we need to pursue our national objectives.

U.S. FORCE LEVELS

	Actual June 30, 1964	Actual June 30, 1973	Estimated June 30, 1974	Estimated June 30, 1975
Strategic forces:				
Intercontinental ballistic missiles:				
Minuteman	600	1,000	1,000	1,000
Titan II	108	54	54	54
Polaris-Poseidon missiles	336	656	656	656
Strategic bomber squadrons	78	30	28	27
Manned fighter interceptor squadrons	40	7	7	6
Army air defense firing batteries	107	21	21	0
General purpose forces:				
Land forces:				
Army divisions	16⅓	13	13	14
Marine Corps divisions	3	3	3	3
Tactical air forces:				
Air Force wings	21	22	22	22
Navy attack wings	15	14	14	14
Marine Corps wings	3	3	3	3
Naval forces:				
Attack and antisubmarine carriers	24	16	14	15
Nuclear attack submarines	19	60	61	67
Other warships	368	242	186	191
Amphibious assault ships	133	66	65	65
Airlift and sealift forces:				
Strategic airlift squadrons:				
C-5A	0	4	4	4
C-141	0	13	13	13
Troopships, cargo ships, and tankers	100	53	32	32

GENERAL PURPOSE FORCES

In this era of nuclear stand-off, the true deterrence against war lies in our general purpose forces. They provide the means to deter or repel limited threats by limited means. They give us "a capability to place boundaries on conflicts and exercise some degree of control over the escalation of violence in the event deterrence should fail."

General purpose forces include the Army, Navy, Marine Corps, the tactical units of our Air Force, our airlift and sealift and most of our National Guard and Reserve forces. Roughly 70% of our defense expenditures are attributable to these forces and their activities.

Our basic concept plans for our forces to deal with a major conflict in Europe or Asia and to respond simultaneously to a minor conflict elsewhere. This is what we term our one and one-half war strategy.

Obviously, the principal contingencies we must consider in planning our general purpose forces are:

An attack on the NATO nations by the nations of the Warsaw Pact led by Russia, and

An attack in Asia with the direct involvement of the forces of a major power.

Beyond these are a whole host of smaller conflict possibilities which hopefully we can deter but, if not, that we can contain and defuse in the least amount of time.

We start off our consideration of the FY 75 budget knowing that we have fewer divisions, fewer ships and fewer aircraft than at any time since the Korean War in the early fifties. Secretary Schlesinger's modest appraisal of the state of our general purpose forces is that our general purpose structure is "on the thin side." There is ample evidence to support that evaluation.

General Abrams, the Army's Chief of Staff, testifying before Congress, described the Army's strength shortfall this way:

"I can tell you how much we need to assure a high probability of accomplishing our national strategy without using nuclear weapons—which would be on the order of 30 divisions—and I can also point out a level below which we would have no better than a marginal chance of succeeding. The end strength we have asked for—13⅓ active divisions and 8 Reserve Component divisions—permits us to field a force which gives us that chance and allows us to sustain it, but will leave virtually no room for error."

Secretary Schlesinger expressed his own judgments concerning general purpose forces as follows:

"The general purpose forces will continue to grow in importance as nuclear parity continues."

"We have a minimum of these forces considering the extent of our interests and responsibilities and the capabilities of potential opponents."

"To reduce the force structure further would undermine the stability that comes from a basic equilibrium, and would lower the chances for a more enduring peace."

"We are, however, reassessing the types of forces we have and, in particular, the size and contribution of the support structure, to see whether adjustments can produce a more effective overall force balance with greater combat capability."

AMERICA'S SHRINKING ARMED FORCES

	July, 1969, height of Vietnam involvement	Size of service in— December 1972, last month of draft	February, 1974
Army	1,512,169	862,262	784,039
Navy	775,869	581,874	553,908
Marines	309,771	196,722	190,422
Air Force	862,353	707,032	673,381
Total	3,460,162	2,347,890	2,201,750

Note: By mid-1975: The total number of servicemen will be cut further—to 2,152,000—according to Pentagon estimates. If targets are reached, the size of the Marines will grow slightly, the Army will remain about the same—with further reductions in the Air Force and Navy.

Source: U.S. Department of Defense.

The table indicates the steady decline in the strength of our armed forces since the height of our buildup for Vietnam. The cuts have been both precipitous and alarming.

In presenting the FY75 budget as it pertains to land forces, the Secretary of Defense discusses Division Force Equivalents (DFE) "a rational concept in the sense that it is an average used for planning and management of the overall force structure, particularly the Army." In the Army (Active and Reserve) a DFE encompasses the division itself plus two support increments (SIS) totaling about 48,000 men.

So, for the FY75 budget, the Department of Defense requests funding of more than 25 division force equivalents, i.e. 21½ active Army and Reserve Component divisions and 4 Marine Corps active and reserve divisions. In manpower, we are talking about an increase in the authorized end strength of the active Army of 3,000 to 785,000.

The planning encompassed by this budget includes an increasingly active role for some of our Army Reserve Component units. The 25th Infantry Division, with only six active maneuver battalions, will continue to rely on one National Guard infantry brigade (two battalions) plus one separate Reserve infantry battalion to round out the division combat units.

Four Reserve brigades are being converted to two mechanized and two armored brigades earmarked for early deployment in a major contingency.

Additionally, plans are going forward to affiliate a substantial number of Reserve Component battalions with the active Army divisions and the early deployment Reserve brigades. These units will not only train with the active duty units, but will have the mission of deploying with these units in an emergency.

From the standpoint of authorized strength for our general purpose forces, the FY75 budget represents an overall reversal of the downward trend.

MILITARY MANPOWER REQUIREMENTS

[Active duty end strengths in thousands]

	Fiscal year— 1973 (actual)	1974 (estimated)	1975 (estimated)
General purpose forces	909	901	929
Land forces	512	513	537
Tactical air forces	165	169	169
Naval forces	190	178	176
Mobility forces	43	41	47

The Army has already taken the lead in efforts to streamline its operations and to bring more combat units from existing strength by reducing overhead, cutting back headquarters and similar actions. In Pentagon parlance, this is known as adding more teeth and reducing the tail.

The following table indicates the principal thrust in the FY75 budget to modernize our land forces. In addition to continuing the modernization of our land forces, there is a need to improve substantially the material readiness of our general purposes forces, including replacement of assets provided to Israel or otherwise consumed in the Mid-East conflict.

Among the lessons learned in the Mid-East war reflected in this budget were the effectiveness of our anti-tank weapons fired from both the ground and the air and hence the increased purchases of TOW and DRAGON missiles and the program to arm the Cobra helicopter with the TOW missile.

The FY75 budget for the land forces recognizes that past manpower cuts have gone too deeply and that our stockpiles of many basic equipment items were allowed to get too low. Similarly, the equipping of our Reserve Components has not reflected the needs of their growing responsibilities in our total force.

However, it is our considered view that, were the Congress to approve this budget as it pertains to our land forces, marked improvements could be effected in these forces.

MILITARY MANPOWER REQUIREMENTS

[Active-duty end strengths in thousands]

	Fiscal year— 1973 actual	Estimated 1974	1975
General purpose forces	909	901	929
Land forces	512	513	537
Tactical air forces	165	169	169
Naval forces	190	178	176
Mobility forces	43	41	80

The Army has already taken the lead in efforts to streamline its operations and to wring more combat units from existing strength by reducing overhead, cutting back headquarters and similar actions. In Pentagon parlance, this is known as adding more teeth and reducing the tail.

The following table indicates the principal thrust in the FY 75 budget to modernize our land forces. In addition to continuing the modernization of our land forces, there is a need to improve substantially the materiel readiness of our general purpose forces, including replacement of assets provided to Israel or otherwise consumed in the Mid-East conflict.

Among the lessons learned in the Mid-East war reflected in this budget were the effectiveness of our anti-tank weapons fired from both the ground and the air and hence the increased purchased of TOW and DRAGON missiles and the program to arm the Cobra helicopter with the TOW missile.

The FY 75 budget for the land forces recognizes that past manpower cuts have gone too deeply and that our stockpiles of many basic equipment items were allowed to get too low. Similarly, the equipping of our Reserve Components has not reflected the needs of their growing responsibilities in our total force.

However, it is our considered view that, were the Congress to approve this budget as it pertains to our land forces, marked improvements could be effected in these forces.

ARMY WEAPONS PROCUREMENT, RESEARCH AND DEVELOPMENT, FISCAL YEAR 1975 BUDGET

	Procurement: Quantity	Amount (millions, including spares)	R.D.T. & E. (millions)
AH-1Q attack helicopter (TOW/Cobra)	21	$28.7	
Advanced attack helicopter (AAH)			$60.8
Heavy lift helicopter (HLH)			57.7
CH-47C helicopter	27	60.4	3.0
UH-1H helicopter	205	69.0	
Utility tactical transport aircraft system (UTTAS)			54.1
Safeguard ABM system			60.8
Site defense ABM system			160.0
Surface-to-air missile development (SAM-D)			111.2
Hawk air defense missile [1]	750	100.9	8.5
Low-altitude, forward-area air defense system (LOFAADS)			44.7
Stinger man-portable air defense missile			33.7
AN/TSQ73 air defense control system		5.7	1.2
Pershing surface-to-surface missile		8.9	
Lance surface-to-surface missile	194	$64.7	
M60A1 tank [1]	664	229.2	$7.9
XM1 tank			68.8
Turret trainer for M60A1 tank	34	6.0	
Armored reconnaissance scout vehicle	35	25.3	8.1
M125A1 81-mm mortar carrier	13	0.8	
M578 recovery vehicle	180	27.9	
M88A1 medium recovery vehicle	77	33.6	
M85 .50-caliber vehicle machine gun	1,682	10.7	
XM198 towed 155-mm howitzer		1.3	6.1
TOW antitank missile [1]	30,319	138.4	10.7
Dragon antitank missile [1]	16,578	129.4	
M202A1 66-mm flame rocket launcher	3,049	2.6	
M60 7.62-mm machine gun	6,000	5.0	
M16A1 rifle	9,114	1.3	

[1] Includes Marine Corps procurement.

NAVAL FORCES

During a period when the Soviet Union has been expanding its Navy at a record pace, the number of ships in our general purpose forces fleet has been reduced from 951 at the end of FY68 to a programmed 522 at the end of FY75. So it is obvious that, even with our reliance on our allies, we have not been meeting our objective of maintaining an appropriate naval balance with the Soviet Union. If the budget for FY75 is approved, it will be the first time in many years that we would be adding almost as many new ships to the fleet as are being retired.

In an effort to expand our naval forces in the face of rampant inflation and unusually high costs, a program of more austere vessels is being put forward. A smaller aircraft carrier, known as the Sea Control Ship, is a good example. This ship, which will launch up to 21 helicopters and VSTOL aircraft, is programmed at less than $120 million per ship as opposed to the Nimitz class carrier now being built, the last of which is expected

to cost about one billion dollars. The Sea Control Ship is intended for low threat situations, escorting merchant or naval supply ships outside the range of Soviet land based aircraft. It is currently planned to build eight of these ships.

In order to continue an adequate forward deployment of our big carriers, a decision has been made to hold the carrier force at 15, rather than reduce it to 13 as originally planned for FY75.

Significant buys of anti-submarine warfare aircraft (ASW) are contained in the budget. Two other new type ships are included also, the Patrol Frigate (PF) and the Patrol Hydrofoil (PH).

NAVY GENERAL PURPOSE FORCE LEVELS

	Fiscal year—		
	1964	1968	1975
SHIPS			
Aircraft carriers	24	23	15
Other combatant ships	364	388	168
Attack submarines	104	105	77
Amphibious ships	133	157	65
Auxiliary and patrol ships	271	262	142
AIRCRAFT			
Combat aircraft	3,710	3,877	3,012
Training/support aircraft [1]	3,239	3,226	2,558
Pipeline aircraft	1,442	1,388	713

[1] Including all USNR and USMCR aircraft.

The Navy is asking for funds for 229 combat aircraft. These include the F-14A fighter equipped with the Phoenix missile; the S3A Viking for ASW work; ATE light attack aircraft; AGE all-weather medium attack aircraft; and A4M light attack aircraft.

Vigorous pursuit of these and the other modernization programs in the Navy budget will be essential to keep pace with the momentum of the Soviet naval programs. It is imperative that we be able to control our sea lines of communication in our worldwide involvement. This becomes a greater task in the face of the expanding strength and range of the Soviet navy.

MARINE CORPS

The two principal problems confronting the Marine Corps at this point in time are a shortage of amphibious assault ships and manpower. Last year, the first of five multipurpose amphibious ships, called LHAs, was launched and, as the others in the program enter the system, we will perhaps reverse the decline in amphibious shipping which we have undergone for a number of years.

The Commandant of the Marine Corps has testified that to maintain the three active division-wing Marine teams at a desired level of readiness requires a minimum strength of 205,000. For FY75, he is requesting an authorized strength of 196,398 or 8,700 less than the requirement. This means that the third division team will not be fully structured and would need conscripted fillers before being readied for combat deployment.

GENERAL PURPOSE AIR FORCES

The active Air Force will have at the end of FY75 a total of 69 squadrons in 22 wings. It is proposed that the equipment in these units will be substantially modernized during that period. It is planned, for example, that the A-7 squadrons would be phased out and replaced by the new A-10 close support aircraft. Similarly, about half of the A-4 squadrons would be replaced by the new F-15 fighter aircraft, which is specifically designed to excel in air to air combat.

Two new lightweight prototype fighters, the Y16 and Y17 will be put through a comprehensive flight test program during the coming year to assess their combat value.

[In millions of dollars]

Air Force aircraft	Fiscal year— 1973, actual funding	1974, planned funding	1975, proposed funding
Continued development/procurement of F-15 air superiority fighter	908	1,129	1,076
Development of lightweight fighter prototypes (including engine)	43	47	23
Development of air combat fighter			36
Development and advanced procurement of A-10 close-air support aircraft	48	107	268
Acquisition of Maverick missiles	79	61	88
Development and procurement of E-3A (AWACS)	194	163	770
Development of EF-111 jamming system	3	15	37

There are also provisions to place greater emphasis on at least eleven separate defense suppression weapons and equipment.

The Air Force is also continuing its development of aircraft to provide all-altitude surveillance and warning and command forces worldwide.

Another program of interest is the advanced medium short take off and landing transport (AMST) which is now in development. It is to be a rugged tactical transport, wide body design, capable of carrying most of the Army's equipment and designed to operate in short fields.

The lessons of the recent war in the Mid-East add substantial support for most of these programs to modernize our tactical aircraft, to give them greater survivability and more punch.

AIRLIFT AND SEALIFT

Strategic mobility has to be considered the Achilles tendon of our total defense establishment. We simply do not have adequate air or sealift to give us the ability to exploit the full deterrent or response capability of the forces we have. The airlift equipment that we have, particularly our C5A transport, is excellent, as the performance in the Mid-East war proved again, but we don't have enough.

Our planners tell us that one of our principal needs is to be able to reinforce NATO Europe rapidly in the event that the Warsaw Pact should launch an intense attack aimed at overwhelming Western Europe in a relatively short period.

At the present time, our strategic airlift consists of 79 C5A aircraft and 275 C141s. Additionally, there are 246 long-range commercial aircraft (153 cargo-convertible and 93 passenger). These latter, of course, are not immediately available in an emergency. (Their crews, for example, cannot be forced to fly in a combat environment.) But they do constitute a usable reserve, but with a built-in time lag in availability.

In the late 1970s, DOD-controlled sealift is expected to consist of only two roll-on/roll-off cargo ships and eight tankers, plus three cargo ships and ten tankers on controlled fleet charter. To meet wartime needs, DOD relies heavily on U.S. commercial shipping, which can be mobilized under Presidential authority. During a NATO contingency, DOD would rely also on the commercial shipping assets of our NATO allies. In any case, it is obvious that some time would be consumed after an emergency was declared before adequate shipping could be organized.

Secretary Schlesinger outlines the problem thusly, "As matters now stand, it would take an average of about 19 days per division to move to Europe a force of several divisions with their initial support increments and all of their combat essential equipment if we were to move them by airlift only." A little simple arithmetic will show that with maximum utilization of aircraft on a fully sustained effort, it would take 133 days, or over four months, to move by air the seven CONUS Army divisions only, if no other lift were available. This assumes that we could move the additional supplies they would need by supplemental air or sea. Even assuming some additional lift could be obtained quickly from our civilian resources, it is not likely that we could improve the deployment time much in the early stages of a conflict.

The equipment for an Army infantry division weighs about 30,000 tons. The equipment for support units for the division weighs about 86,000 tons. The division and its support elements consume supplies at the rate of 2,300 tons per day in sustained combat. Hence our strategic lift needs must be greatly enhanced if we are to come anywhere near to meeting our planning deployment goals.

The FY 75 budget contains requests that would 1) step up utilization of C5As and C141s by assigning more crews, 2) lengthening C141s' fuselage by 280 inches and installing equipment for inflight refueling. When all of this is done, it is hoped that air deployment time can be reduced to an average of 12½ days per division.

Since the C5A is the only aircraft which can carry the outsize combat equipment our troops need, whatever else we do, our deployment capability will continue to be constrained by the number of C5As we have on hand. Hence, we reiterate our earlier recommendation that we do the intelligent and cost effective thing and buy several more squadrons of C5As. That will give us the quantum increase in airlift we require. We must not let past political problems or production difficulties penalize our defense capabilities.

The sad state of our sealift pinpoints another dilemma that confronts our military establishment increasingly, and that is its ability to attract industry interest to defense programs. Low profitability, Congressional and bureaucratic harassment has turned much of industry to civilian pursuits. Last year, for example, it was planned to acquire two multimission ships through a build and charter arrangement. A lack of response from the shipbuilding industry because of the limited number of ships contemplated and the general harassment and low level of profitability in building ships for the government caused this program to be sidetracked.

It seems incredible that the greatest industrial nation in the history of the world would have its defense capability and deterrence so constrained by its inability to move sufficient numbers of troops and equipment by air or sea. We couldn't do it by rail within CONUS either, for that matter.

RESERVE COMPONENTS

The state of our Reserve Components has had a high state of visibility lately through recent Congressional testimony, the DOD Total Force Study Group, and a recent study by the Brookings Institution to which this Association responded in considerable detail.

The three basic concerns with these forces are manning, equipment and readiness or training. The Secretary of Defense's annual report reflects considerable upgrading in Reserve and U.S. Marine Corps Reserve.

As the chart indicates, as of this time the only serious shortfalls in strength, at least on a percentage basis, are the U.S. Army Reserve and U.S. Marine Corps Reserve.

The strength situation will be further changed by the mandatory 48,000 man cut

which the Department of Defense has directed be absorbed by the Army National Guard and the Army Reserve. Presumably, this cut includes the previously announced elimination of the Nike Hercules air defense units and their manning table of 4,500. It undoubtedly will be possible to absorb some of the people who are not in units being eliminated by the 48,000 cut into other units which will remain. To the extent that this is possible, the strength situation will be further alleviated. But the answer to strength problems is not the elimination of units. What we should be seeking is how to produce a more effective total force, not to consider reductions. If we have units whose state of training or equipment level is currently inadequate, it is our view that a great effort should be made to correct these deficiencies rather than to give consideration to the elimination of the units.

There have been determined efforts to improve the equipment picture in the Reserve Components, even though the drawdown for the Mid-East war plus those for Vietnam have made it impossible to reach established goals. Some items in the communications area, anti-tank missiles, tanks and ammunition, for example, are in short supply, and there are other deficiencies as well. The Army Guard and Reserve are $2.5 billion short of having their full TO&E equipment.

The Navy and Marine Corps Reserve equipment picture is good with the possible exception of the need for more modern aircraft for the Marine Air Wing. The Air Guard and Reserve continue to modernize their aircraft. The Air Guard has recently lost its air defense units and a decision will have to be made by DOD as to whether these units are to be re-equipped with other aircraft for different missions to make use of the highly trained people who are available.

Among those who would degrade or diminish the worth of our Reserve Components to our total defense posture, there is a great deal of hand-wringing about readiness. We agree that Reserve Component units and/or individuals who cannot be ready to perform when needed are indeed of little use. However, we suggest that a more effective and less emotional readiness program could be effected that would utilize the great bulk of our Reserve Component units if we were more realistic.

It is difficult to reconcile on the one hand the insistence of the Department of Defense that all Reserve Component divisions and supporting units be ready to deploy in at least 30 to 60 days with the Secretary of Defense's description of airlift and sealift capabilities, on which we commented earlier. Under present airlift capabilities, it would take at least 80 to 100 days under ideal conditions to move all our CONUS active divisions by air. Under DOD's present timetable, Reserve Component divisions are being asked to be ready to move out a month or so before we could deploy them. Moreover, in his annual report, Secretary Schlesinger makes a further point:

"We will still need a substantial sealift capability to sustain and augment the forces initially deployed by airlift. Even in a NATO-Warsaw Pact conflict, some of the later deploying forces (*e.g. Army Reserve Component divisions and their support increments*) *would have to move by sea*, as would the bulk of the resupply for all the U.S. forces already deployed." (Italics added)

With this movement plan and the current shortfalls in Reserve Component essential equipment, it would appear that there is adequate time for a more orderly mobilization and deployment of our Reserve Component units than we have been led to believe.

This is not to say that we should not proceed with a firm sense of urgency to improve to the maximum extent possible the readiness time of our Reserve Component units. What this does suggest is that we can arrange to deploy our Reserve Component units in an order of priority of readiness, which should enable us to make use of all of them, if need be, and avoid elimination of some units only because they couldn't be ready to deploy overseas in 60 days, but could be ready in plenty of time to meet a realistic schedule of when we could actually move and use them.

It is imperative at this time to recognize the very major efforts which are being made in all of the services to improve the management and readiness assistance to the Reserve Components. These efforts show great promise and should be given an opportunity to demonstrate what can be accomplished by this extra effort that has not been possible previously. Project STEADFAST in the Army, which gave to the three Continental Armies and nine Readiness Regions the sole mission of supporting and assisting the Reserve Components, as well as the realignment of Navy Reserve forces and the improved equipment picture in the Air Force all will, we feel sure, contribute importantly to the betterment of our Reserve Forces. But they need time to work, and we would oppose strongly further major reorganization and upheaval within the Reserve Components until such time as we are able to evaluate the improvements resulting from these initiatives.

We shall continue to urge strongly the enactment by Congress of the special pay legislation which has been pending for the last year which would assist the Reserve Components with their recruiting efforts. This becomes even more important as the pool of prior service prospects diminishes, so a greater effort is needed amongst those who have not previously served. It is our feeling that, had the Department of Defense vigorously pushed for this legislation in the past, it would have passed the Congress and be available for use now.

We recognize that world affairs, changing technology and national strategy are constantly impacting on our requirements for military forces, and we do not support the status quo for the sake of the status quo. However, it is our view that our defense forces could be improved if it were possible to avoid any further reorganization of major Reserve Component units and to maintain the integrity of the smaller supporting type units to the maximum extent possible. If we can avoid the disruption and harassment that stem from reorganization and change for a period of time, we can get a good assessment of all those things we need to do to insure that our Reserve Components can, in fact, contribute to the National Defense that which we ask of them.

There is evidence from all sides that the Reserve Components are responding admirably to the additional challenges that have been given to them in their role of active partnership under the total force concept. The fact that the great majority of Reserve Component units are at the highest levels of readiness they ever attained is a clear indication of their ability to develop a greater capability for earlier response and to meet their mission commitments. In our view, this can be accomplished most quickly in a stable environment.

THE ALL-VOLUNTEER FORCE

We have had much to say about the all-volunteer force and its prospects over the past few years. It has been playing to mixed reviews. Neither the optimists nor the pessimists have seen all of their predictions come true, but there is no gainsaying that a truly massive effort is under way to try to make it work.

The chart indicates the results to date. But it doesn't really give the full picture. Calendar year 1974 will be needed to make a sounder judgment. This will be the year when the full impact should be felt from all the programs which have been instituted to attract sufficient volunteers. Congress recognized this when the FY74 defense budget was being passed.

But Congress has not been entirely helpful to the program. In an effort to establish a set basis for maintaining the quality of the armed forces, Congress requires that 55% of the new enlistees be high school graduates. Obviously, this puts a brake on some recruiting, and unnecessarily, in the view of Department of Defense officials, who point out that a high school diploma per se is an artificial measurement of a man's ability to perform well in the service. We discussed in a previous paper the new tests and screening procedures that better select those who can best adapt and progress.

Since there is still a reluctance on the part of Congress and elsewhere to embrace the all-volunteer concept without reservation, we still adhere to our view that the prudent course for the country would be to reinstate the President induction authority under Selective Service to be used if needed to fill shortfalls. We may be approaching the time when it would be desirable to offer the present premium rates of pay and other options to those who volunteer and a lesser rate to those who are conscripted. Such a plan would encourage volunteers without adding to personnel costs.

By the year's end, we should have a much better picture of our ability to attract volunteers to military service. It will be increasingly important to know this, for we cannot cut the size of our active forces further and maintain our global commitments and responsibilities.

CONCLUSION

During his first year of office, President Nixon outlined the parameters of our basic national security strategy as including the following:

1. The United States will keep all of its treaty commitments.

2. We shall provide a shield if a nuclear power threatens the freedom of a nation whose survival we consider vital to our security.

3. In cases involving other types of aggression, we shall furnish military and economic assistance when required in accordance with our treaty commitments. But we shall look to the nation directly threatened to assume the primary responsibility of providing the manpower for its defense.

The fundamental objective of U.S. military policy is to deter armed conflict. This requires maintaining a clear and evident capability and resolve to fight, in concert with our allies, at any level of hostilities so that any potential opponent will assess his risk of defeat to be unacceptable. Should deterrence fail, the objective is to terminate hostilities on terms favorable to the United States and its allies, while preserving our security interests.

What we have tried to point up in this paper is an appreciation of our worldwide interests which affect our defense planning. We have called attention to the opposing capabilities, particularly those of the Soviet Union against which we must measure our adequacy. And we have commented on our commitments with more than 40 nations which we have pledged to honor.

On balance, estimates of the international situation have become more optimistic in recent months. We are out of Vietnam; we do have a measure of detente with the Soviet Union and the Peoples' Republic of China; there are on-going negotiations to try to find acceptable ways to limit the proliferation of strategic arms and to reduce on a balance basis the forces opposing each other in Central Europe; and to try to find an intrastate agreement to lessen tensions and increase trade and intercourse throughout Europe.

But the fact of the matter is that the sheer physical threats, as measured by the military capabilities of political adversaries, have increased impressively in recent years. So have our foreign interests, with a larger volume of international trade and expanded external investments. Even more significant is our growing dependence on raw materials from sources overseas. Some 69 out of 73 strategic materials we require are imported.

In the face of all this, we find that over the recent years our defense posture has declined dramatically. There can be no doubt that the cuts have gone too deep and that we need vigorous programs to restore the balance. The FY75 defense budget, which has been presented to the Congress, makes a start at redressing our most perilous shortfalls But, in the Congressional testimony and committee hearings thus far, there has been no discernible sense of urgency, and this we must impart. Begullement with other pressing problems which face the nation must not further erode our military strength.

There has been much discussion in the media and the Congress about the FY75 defense budget being the biggest in the nation's history—and in today's inflated dollars, it is. But there are other measuring sticks that make the story clearer. It is only 5.9% of our gross national product as compared to 9.4% in 1968. And it represents only 27.2% of our total federal budget outlays as opposed to 42.5% in FY68. These figures and those in the graph make it clear that our priorities have been reordered and that a great deal has been taken from defense for our country's social welfare programs. We need not be defensive when we ask for public support for an adequate military force.

While we reach out hungrily for the solace of detente, we must also be wary. Secretary of the Army Howard H. Callaway reminded us of this in his testimony before Congress when he said: "Governments change, as do policies and intentions and perceptions of issues that warrant the use, or threatened use, of military force. It is rare in history that a power preferred the use of force to that of achieving the same ends through the threat of force. It is freedom from coercion, from the threat of force, which we gain by being ready to fight if necessary."

If we are to cope with what President Kennedy has called the rising tide of human expectations, we must do so in a dynamic society operating in a peaceful environment held secure by an adequate, credible defense establishment.

So national security is the first challenge of the peace-makers. It is, in fact, the urgent challenge and opportunity that confronts us all today.

SENATOR ROBERT C. BYRD FACES THE QUESTION OF POSSIBLE ENLARGED SERVICE AS HE WORKS EFFECTIVELY FOR WEST VIRGINIA AND THE NATION

Mr. RANDOLPH. Mr. President, over the next 32 months the American public will be studying the qualities of many men to decide who shall lead in the perilous times ahead. It is an understandable action that they turn first to those potential candidates they know best. Consequently, boomlets for parochial candidates arise. But the critical examination for those needed qualities of integrity, wisdom, and the ability to lead will certainly narrow the field. One who can and will survive this winnowing is my colleague, Senator ROBERT C. BYRD of West Virginia.

On April 19, the Mineral County News Tribune published a thoughtful editorial by Patricia Wagner about an appearance by Senator BYRD in Keyser, W. Va. It tells of the growing speculation that Senator BYRD possesses those qualities required of a Presidential candidate. The writer comments:

Robert Byrd has come a long way and that way has been both difficult and rewarding. Lesser men would have floundered many times along the way, but fate, or what have you, deemed difficult. His destiny may hold still more important tasks for him to accomplish.

Mr. President, the editorial sets forth the pride and respect we West Virginians hold for BOB BYRD. I ask unanimous consent that it be placed in the RECORD so that others share the editorial accolades that years of unstinting service to a constituency can evoke.

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

[From the Mineral Daily News Tribune, Apr. 19, 1974]

BYRD FACES SAME BIG QUESTION

Tomorrow Senator Robert C. Byrd comes to town again. He is no stranger here. In fact, there are few places in this Mountain State he has not visited.

His gracious lovely lady, Emma Byrd, told us a couple of years ago that he likes to get out, walk around by himself and visit and talk with people.

Several times we saw him introduce himself to persons standing trying not to stare with mouths agape. They knew who he was but felt shy. Other times, citizens would literally run up to him—sometimes big men who would stare down at him, looking him square in the eyes, and demand that he run for President.

We were most interested to hear just how he answered. He smiled, treated the demand (sometimes a request or question) as a compliment. He thanked them and added that he was working fulltime to serve West Virginia and the county in the United States Senate.

Wednesday this newspaper ran a UPI story saying the state chairman of the Democratic Executive Committee has approached him on the subject of making a bid for the nomination. Chairman J. C. Dillon reported Sen. Byrd did not say yes or no.

Years ago we felt Sen. Byrd should run for President just because we admire him so. Now times have changed and we want Sen. Byrd to be President because we are alarmed about the future of this country and even our form of government.

He knows how we feel and we trust him to make the right moves.

From the exposure he has had lately on TV and in the national media, we believe more and more that others outside West Virginia are interested in his views, too. When other leaders are headline hunting, he appears confident, knowledgeable and wise. He can turn a phrase with the best of them but his long suit is reason, not emotion.

Robert Byrd has come a long way and that way has been both difficult and rewarding. Lesser men would have floundered many times along the way, but fate, or what have you, deemed different. His destiny may hold still more important tasks for him to accomplish.

One man the other day stated flatly that if Sen. Byrd did not run for the office, he just wouldn't vote for anybody for President.

Maybe if others around the country had a chance to compare the Senator from West Virginia with the others in the field, they will see what we see—he stands out above all the rest.

Tomorrow night he'll get a special welcome here at the Inter-Club dinner and he will enjoy being here and he'll remember. This time maybe we can beat him to the punch and ask him (before he can ask us) "What can we do to help you?" He is always offering assistance to others, maybe some way we "others" can assist him.

In years past, we have cast our votes for him—trusting he would make the right decisions and take appropriate action for the good of us all. We know he continues to do just that and we are for him whether he be in the Senate or the White House.

JOHN F. GRINER PROVIDED LEADERSHIP TO GOVERNMENT EMPLOYEES

Mr. RANDOLPH. Mr. President, on Monday Federal employees lost an advocate whose deeds will forever endear him in their hearts and minds. This man was president of the American Federation of Government Employees from 1962 until his resignation in 1972 because of ill health. He was my very dear friend of 15 years and during his tenure the union membership expanded to over 300,000.

John F. Griner was a true American in every sense. His legislative battles were fought for the sole purpose of aiding those who most required help and were unable to help themselves. His work benefited citizens generally. President Griner was loved and respected by a multitude of men, his colleagues in the labor unions, here in the Senate and the House, but most of all by the civil servants he represented.

As president of AFGE, John's leadership was an inspiration to all the members of that organization. He was the guiding light in the legislative proposals which Government oriented unions set forth. He accepted challenges and met them with wisdom and affirmative action.

To the widow and children of John Griner, I extend heartfelt sympathy; to the members of the AFGE my sincerest thanks for having given me an opportunity to work with this helpful man. He was a source of sound counsel to me, as I know he was to other Members of the Congress.

We shall remember our friend from Georgia.

He was a man of courage, who fought with his mind and heart and spirit for the principles in which he believed. We honor the memory of John Griner as a good and great American.

STEEL INDUSTRY AGREEMENT

Mr. JAVITS. Mr. President, the Senate should take note of the recent collective-bargaining agreement reached in the steel industry under which 6 years of peace on the collective-bargaining front will be assured for this vital sector of the economy. The agreement reached this week is obviously good for steel workers; it provides substantial wage increases and equally important, substantial improvement in pension benefits. From the management standpoint, the assurance of 6 more years of labor peace will greatly facilitate the kind of advanced planning concentration on pro-

ductivity and supply stability which will make it much easier for American steel companies to compete with their foreign counterparts.

In all respects this agreement is a complete vindication of the farsightedness of management and labor in the steel industry in entering into the experimental no-strike contract under which the current negotiations were conducted. It took faith and courage to enter the original agreement and it will still require the utmost good faith to see that the extension of this no-strike principle for another 6 years works out to the satisfaction of both management and labor.

Finally, I think this agreement is really a tribute to the institution of collective bargaining as it has developed in America. It shows that our thinking is not frozen or politicized when it comes to labor-management relations in key industries and it augurs well for the future economic health of our country. Indeed, now that the initial experiment in steel has been so successful, I hope that other unions in other industries will also try similar approaches to their collective-bargaining problems.

Mr. President, I ask unanimous consent that an article about the steel industry appearing in the New York Times on Friday, April 12, 1974, be printed in the RECORD.

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

STEEL UNION WINS PAY, PENSION GAIN IN 3-YEAR ACCORD

(By Philip Shabecoff)

WASHINGTON, April 12.—The United Steelworkers of America accepted today—more than three months before their old wage contract expires—a new three-year agreement providing increases in pay, cost of living allowances, pensions and other benefits.

I. W. Abel, president of the union, and R. Heath Larry, chief negotiator for the steel companies, said at a news conference that the experimental no-strike agreement under which the contract had been negotiated was an unqualified success and that the two sides had agreed to use the same technique for the next negotiations three years from now.

This decision virtually guarantees labor-management peace in the steel industry for the next six years at least because the pattern has been for three-year or multi-year contracts.

The new contract will increase hourly wages by 60.9 cents or more than 10%, over the three-year period, with the first raise going into effect in May 1. Union spokesmen said today that the lastest cost-of-living increases, average steel wages were $5.88 an hour.

AFFECTS 386,000

The new contract immediately affects 386,000 workers in the basic steel industry.

Under the new cost-of-living formula, according to the union, there will be a 1 cent an hour wage increase for each three-tenths of 1 per cent increase in the Consumer Price Index compiled by the Bureau of Labor Statistics of the Department of Labor. Previously, the 1 cent raise was given for each increase of four-tenths of 1 per cent in the index.

Under the pension agreement, the retirement age for receiving a full pension is reduced from 65 to 62. Minimum pension rates have been increased at all levels. Thus a 30-year employe who had received a basic $265-a-month pension will now receive $352.50 a month.

The new contract also provides for a "retiree inflation adjustment," which will be added to the monthly payment as a hedge against inflation during the life of the contract. While not the same thing as a cost of living escalator tied to the Consumer Price Index, it does deal with the erosion of fixed pensions by inflation.

This is a new approach to pension payments. The first time it was incorporated into a major contract was earlier this year in a settlement between the United States Steel Workers and the aluminum industry.

Under the contract announced today, the monthly pension payments will be augmented by 5 per cent over the life of the new contract.

COST PUT AT $3 AN HOUR

Mr. Abel and Mr. Larry both declined to set any cost figure for the wage package or to estimate a percentage increase. Both said that there were many factors in the contract that could not be predicted.

An industry official said, when pressed for an estimate, that the cost per worker would be substantially over $3 an hour.

Other estimates put the increased cost of the new wage and benefit package as high as 40 per cent.

Mr. JAVITS. Mr. President, I also ask unanimous consent that a copy of a telegram I have sent to I. W. Abel, president of the United Steelworkers of America and R. Heath Larry, the chief management representative for the steel companies, also be printed in the RECORD.

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

APRIL 22, 1974.

Mr. R. HEATH LARRY, *Vice-Chairman*
Board of Directors, U.S. Steel
600 Grant Street
Pittsburgh, Pennsylvania

Congratulations on achieving a collective bargaining settlement and the further extension of another six years of the experimental no-strike approach to collective bargaining in the steel industry. Not only does your agreement guarantee stability and progress in a vital sector of our economy, but it also serves as a tremendous example which I hope will be followed in other critical industries.

JACOB K. JAVITS,
U.S. Senator.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

POULTRY INDEMNITY PAYMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 3231, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 3231) to provide indemnity payments to poultry and egg producers and processors.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

That the Secretary of Agriculture is directed to pay compensation for poultry, eggs, and poultry and egg products, including the costs of disposal of such items, at a fair value, to poultry and egg producers, growers, and processors who have been specifically advised, under the authority of the United States, after January 1, 1974, that their poultry, eggs, or poultry or egg products contained residues of chemicals registered and approved for use by the Federal Government at the time of such use, except that no compensation shall be paid to any producer, grower, or processor who suffered loss as a result of his willful failure to follow provisions of law or procedures prescribed by the Federal Government in connection with the use of the chemicals or feed or other products containing the chemicals or in connection with the disposition of the contaminated poultry, eggs, or poultry or egg products, and no compensation shall be paid to any producer, grower, or processor to cover that portion of a loss for which he has been compensated by a third party.

SEC. 2. The Secretary of Agriculture is also directed to compensate employees of poultry and egg producers, growers, and processors for any lost wages as a result of the condition which qualifies the producer, grower, or processor for compensation under section 1 of this Act. In determining such compensation, the Secretary shall take into account any amount received by an employee as wages, earnings, and other benefits. The compensation to such employee shall continue only so long as the poultry or egg producer, grower, or processor is unable to resume normal operations because of the condition which qualifies the producer, grower, or processor for compensation under section 1 of this Act.

SEC. 3. The acceptance of any compensation under this Act shall constitute an assignment to the United States of any claim which the person accepting such compensation may have against any third party, to the extent—

(a) such claim arises from the existence of the residue of chemicals referred to in section 1 of this Act; and

(b) the amount recoverable by the United States does not exceed the amount of the compensation paid by the United States.

SEC. 4. The Secretary is authorized to issue such regulations as he deems necessary to carry out the purposes of this Act.

SEC. 5. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 6. The authority granted under this Act shall expire on December 31, 1977.

RECESS TO 12:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, without any time therefor being charged against the bill, that there be a recess until the hour of 12:30 p.m. today.

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

Thereupon, at 11:25 a.m., the Senate took a recess until 12:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. HASKELL).

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting nominations, was communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HASKELL) laid

before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

POULTRY INDEMNITY PAYMENTS

The Senate continued with the consideration of the bill (S. 3231) to provide indemnity payments to poultry and egg producers and processors.

The PRESIDING OFFICER. Who yields time?

Mr. EASTLAND. Mr. President, I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. EASTLAND. Mr. President, S. 3231, as reported unanimously by the Senate Committee on Agriculture, will go far toward alleviating the disastrous conditions that exist in the Mississippi poultry industry due to the contamination of the broilers by Dieldrin, a chemical regulated by the Food and Drug Administration.

The plight in which these broiler producers find themselves was not of their own making. It entered the feed chain through some feed ingredient that was contaminated by the regulated pesticide Dieldrin. The losses sustained should not be borne by the individuals but by the Federal Government which is responsible for regulating the use of this chemical product.

It was the unanimous judgment of the Senate Committee on Agriculture that the growers, producers, and processors should be indemnified for their losses and that the employees should receive remuneration in excess of available programs and employment for the time lost from their normal employment.

Mr. President, the concept of compensating farmers for losses due to regulated chemicals by the Federal Government is not new. We have made provisions to indemnify dairy farmers, beekeepers, and cranberry growers when their products were removed from the market.

We compensate the hog producer for the swine that he must destroy due to cholera infection. We compensate the cattle farmer who must dispose of the cow with Bang's disease. In the farm bill of 1973 we compensate the grower against the loss of crops due to conditions beyond his control.

The immediate passage of this legislation is essential to the continuing production of broilers by many of the producers and growers involved in this calamity. The loss of the birds in which feed, labor, and other costs have been invested is staggering.

The last study showed profits of only slightly more than half of 1 percent. Those involved in this unfortunate and disastrous incident cannot recover and continue to contribute to our food needs on their own. There is no financial fat in these operations. They are small- and medium-sized home grown and owned businesses from the grower through the processor.

This bill does not provide a windfall for anyone, no profits will be realized, and only verified costs and labor lost will be compensated. It assures that every individual will receive his just share of compensation.

The USDA already has records of the number of chicks placed in each grower's broiler house—the date they were put in—the age and date of the chickens destroyed and disposed of under Government supervision. The Department knows the feed conversion rate for chickens as well as having access to the records of the amount and price of feed bought and delivered. From the beginning, the producers disposed of chickens in a manner that USDA can use—weight, age or number, or all three—in arriving at a "fair value" for each grower's and producer's share of indemnity in each lot or house of chickens.

Mr. President, the cooperation of those involved in this incident has been complete and open—and will be.

Dr. G. H. Wise was Acting Administrator of the Animal and Plant Health Inspection Service of USDA on April 4. Let me quote from his letter to me on that date:

> We can report that in all cases the cooperation has been excellent. . . . All records have been made available to authorized officials who were tracing the source of the contamination. They decided to destroy the birds and accepted the requirements placed on them in carrying out this disposition.
>
> Other Federal agencies were equally cooperative. The Food and Drug Administration immediately set up an on-site investigation which has been expanded to a traceback of feed ingredient sources. The Environmental Protection Agency rapidly responded to all requests for participation during the last weekend in March and had a disposal team on site Monday morning, April 1.

You will note that Dr. Wise said "all records have been made available to authorized officials." This letter is in the report on the bill and so is a letter from Mr. Charles L. Elkins of EPA, let me read you excerpts from his letter to me of the same date:

> As soon as a question was raised as to the possibility of dieldrin contamination, the producers involved took immediate steps to withhold their flocks from the processors, to avoid even the slightest possibility that contaminated chickens might get to market. They also undertook an immediate testing program to determine the extent and severity of the contamination.
>
> In addition to these actions to safeguard the consuming public, the producers were also most responsive to our requests for information on feeding procurement and practices, possible contamination routes, and any other information needed . . .
>
> The producers were quick to accept the decisions of Federal and State agencies as to the need for disposal of the contaminated birds, and moved immediately to undertake destruction and burial of the contaminated flocks. We feel that their cooperation at every step of the process has earned them the respect and thanks of the Government and the public. . . .

Mr. President, in spite of this cooperation there has been bad publicity in the press concerning this incident. The honor, integrity, and motives of Members of Congress have been impugned by innuendo and smear language concerning the introduction of this bill. I am proud to be one of the authors of this bill. I would have been derelict in my duty as one of their representatives in the Senate if I had failed to try to help them after we have passed indemnity legislation that has compensated our beekeepers, dairymen, and cranberry growers for injury suffered from Federal Government regulated chemical contamination of their products. To fail to act on their behalf would have been, and will be, discrimination.

In the bill we have gone further to be sure no payments are made that are not justified than in similar legislation. The Government's right of subrogation has had to be obtained by regulation in the other indemnity acts—we have spelled it out in this bill. As additional assurance I have agreed to accept Senator HART's amendments that will require the Government agencies to pursue diligently the source of the contamination, and for the Justice Department to use every legal means to recover from those responsible. The amendment further requires the Comptroller General to oversee the USDA's handling of the incident and for all agencies involved to report to the Congress in 1 year. The same procedures would apply to any other incident that might occur during the life of the legislation, which runs concurrently with the beekeepers and dairy provisions. Should we do less for our poultry producers?

This bill needs no further amendments. It needs passage immediately so that the nearly 3,000 injured persons can recover and continue to produce the needed and wholesome food they produced in the past.

The Government can document the losses and determine the guilt in this incident and go to court and recover from those responsible. I do know that each of the injured parties cannot afford to go to court, develop a case, and recover individually. In nearly all cases the costs would exceed the returns, but regardless of the amount, it is the living of those involved during this period and possibly their future employment and business. The Government has the time and resources to recover—these people have neither. They need help—now. I hope you will support me in the passage of the bill.

Mr. AIKEN. Mr. President, will the Senator yield just a minute?

Mr. EASTLAND. I yield.

Mr. AIKEN. I think the Senator from Mississippi is completely justified in the requests which are embodied in this bill. I believe the poultry growers of Mississippi were not responsible for their losses, and that the people who really were responsible should be held accountable for them.

Mr. EASTLAND. That is correct.

Mr. AIKEN. That is all I have to say.

Mr. EASTLAND. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Who yields time?

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

Mr. CLARK. Mr. President, will the Senator withhold that request?

Mr. STAFFORD. Mr. President, I withhold that request.

Mr. CLARK. Mr. President, I yield myself 15 minutes.

Mr. President, I ask unanimous consent that two members of the staff, Bill Albrecht and Brady Williamson, be given privileges of the floor during consideration of S. 3231.

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

Mr. CLARK. Mr. President, I would like to correct the RECORD to this extent: I voted against the bill in the Senate Agriculture Committee when it was considered. I voted that way——

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

Mr. CLARK. I yield.

Mr. EASTLAND. Does the Senator mean to state that he voted against this bill in the Agriculture Committee ?

Mr. CLARK. That is exactly what I mean.

Mr. EASTLAND. Nobody else did.

Mr. CLARK. I voted against it. I spoke against it. I raised several serious questions about it, and I announced myself clearly against it in committee; and I did that, not necessarily because I am opposed to its substance, but because the bill should not be passed without closely examining the issues involved.

In my opinion, S. 3231 should be sent back to the Agriculture Committee for public hearings and for closer consideration. It has received virtually no consideration in the Agriculture Committee to date except for the four or five questions which I raised at that time. I am sympathetic to the plight of the Mississippi poultry industry and its employees, but I question the wisdom of the Federal Government's assuming full responsibility for the cost of this incident and future incidents like it without the benefit of full hearings and debate.

If the bill is not recommitted for further consideration, I will propose several amendments. They will improve the bill, but these very amendments demonstrate the complex nature of the problem.

The issues involved in the amendments should have been considered fully in committee before the bill was reported. It is my hope that the Senate will direct the Agriculture Committee to address itself to them.

The issue before us today is not whether poultry producers and processors should be reimbursed for their losses due to dieldrin poisoning. The issue is whether the Senate could pass S. 3231 without careful consideration. The issue is whether the Senate should act without following the normal practice of holding hearings, gathering public testimony, evaluating the impact of the legislation, examining alternate methods of resolving this problem, and determining the cost of the proposed legislation. The House Agriculture Committee has held hearings—hearings which raise serious questions—so why should the Senate not hold hearings in an attempt to get answers to some of these questions?

The 1 day of hearings held by the House subcommittee served primarily to demonstrate the need for additional hearings. On April 22, 10 days after the House hearing, the Department of Agriculture told me that much more information is needed before it can state whether it is for or against S. 3231. The Department believes that it must still learn the cause of the problem, the extent of the liability to be assessed against the source of contamination and what remedial steps can be taken to prevent its recurrence.

The FDA has indicated that the contamination may be more widespread than initially suspected. There are allegations that some of it may have been deliberate. The EPA now wants to ban dieldrin altogether. Surely we need to know more about these related developments before enacting legislation which may cost many times more than the estimate of $10 million for the birds already destroyed.

It is not yet possible to trace the full extent of the problem in Mississippi, or what will happen during the 3½-year life of the bill, so it is not possible to estimate the cost of an indemnity or compensation program at this time.

A number of similar incidents have occurred in past years. Although none has been of the magnitude of the current Mississippi situation. Since 1968, there have been 18 such incidents of pesticide contamination involving poultry in 20 States. Livestock—cattle, swine, or lambs—have been involved in another six incidents in five States during the same period. None of these losses has been indemnified by the Government. If the current estimates—12 million birds either voluntarily destroyed or awaiting possible destruction—prove correct, the losses to the poultry industry in Mississippi could amount to $7.5 to $10 million. My questions to the staff of the Agriculture Committee about who would receive the bulk of the indemnity benefits have been met with the response that it is still impossible to determine the answer. I accept that explanation. It is a good reason to have hearings, so that we will know who benefits and in what amounts.

However, it appears very possible, from reading the House hearings, that approximately 90 percent of the indemnity payments will go to just five large producers. One of these producers indicated, after these hearings, that he expects to receive close to $2 million and to pay $225,000—less than one-quarter—to farmers under contract to his farm. That is his testimony. Despite the claim that indemnity is necessary to prevent bankruptcy, evidence to substantiate that has not been presented. I have been told that one of the firms involved operates in several States and has annual sales of $38 million. Will it go bankrupt? The need for further investigation is obvious.

There are many factors which must be considered in determining how—or whether—to indemnify the producers and processors. We need to know how much money is involved, exactly who will receive the benefits, what steps are being taken to assign responsibility for the loss, and what efforts are being made to prevent this from occurring again.

There is serious concern that the immediate indemnification under this bill will remove any incentive to recover the loss through civil action. I interpret the comments of the distinguished Senator from Vermont (Mr. AIKEN) to raise that point.

It also will reduce the incentive to determine the cause of the contamination and take steps to prevent it from happening again. If those responsible for permitting the dieldrin to get into the feed are not made to account for it, what incentive is there for them to spend their own funds to ensure that it does not happen again?

The businesses involved are highly competitive. The margin of profit in the poultry business is less than 1 percent of sales. Under these conditions, there is an understandable reluctance to spend any more than is absolutely necessary. It seems inevitable that the existence of a Government guarantee will increase the possibility that one or more firms will fail to take the necessary precautions. Even if we do agree to indemnify the current losses, it seems unwise also to guarantee indemnification of all similar losses for the next 4 years.

While the bill's subrogation provisions in section three do allow the Federal Government to seek recovery from the parties at fault, the administrative cost of this recovery places an unnecessary and improper burden upon the taxpayer. Although the producers have suffered loss through no fault of their own, they may recover directly from any parties whose negligence caused the loss. If it is now to become the business of the Federal Government to sue private companies for other private companies, then we have established a very new and different kind of precedent. Many Senators have spoken in this Chamber over the years about the Federal Government usurping the rights and privileges of private individuals. Why should we now argue that it is the business of the Federal Government to enter private lawsuits on behalf of other private companies and the public?

However, the most important question, the fundamental issue, which we must consider is determining the proper role of Government in protecting individuals and businesses against financial losses.

There are many risks involved in running a business in the free enterprise system. The profit a business earns is, in large measure, a return for undertaking those risks. For the Government to insure a business against all risks would eliminate the incentive for efficient operation, and it would insure that there would be no penalty for bad judgment or reward for good judgment. It eventually would destroy the vitality of a free enterprise, competitive economic system.

Everyone in the Senate would surely agree that there are circumstances in which it is appropriate for the Government to provide some protection, but certainly no one would argue that the Government should guarantee protection against all financial loss.

One essential criterion in determining when the Government should give assistance is the matter or responsibility. If the loss is due to one's own negligence, bad judgment or irresponsible behavior, Government reimbursement is not appropriate. I think we would all agree with that. If the poultry producers knowingly had fed the chickens contaminated feed there would be no justification for reimbursement and the bill as written provides for that. But a lack of knowledge alone should not relieve anyone of responsibility for the contamination of

chickens. We need to know what steps were taken to insure that their feed did not contain any harmful substances. Ignorance is no excuse if reasonable caution has not been exercised.

The second question that should be raised in connection with subsidies concerns the form of the Government assistance. Should it be in direct payments or in loans? Most Government assistance for disaster relief is in the form of loans. Why can we not take some time to discuss the appropriateness of this remedy for the problem in Mississippi?

There is another reason why there ought to be hearings on this most important subject: we have just seen a series of disastrous tornadoes, and the victims are not going to be fully reimbursed; instead, they are going to get low-interest loans. We have seen a series of disastrous floods, including some floods in Missisippi. Those people who had their homes and businesses destroyed are not going to be fully indemnified; they are going to get low-interest loans. So that alternative should be considered in this case as well.

Should Government reimbursement be on the basis of need, or should it go to all who suffer some financial loss? Surely it should be only on the basis of need.

Profit is a reward for undertaking risk, and risk is one of the normal costs of doing business, reflected in the price of the product.

Sometimes, "acts of God" or other unforeseen events impose tremendous financial hardship. When these events lie well outside the normal course of events, and people are seriously hurt financially, only then is there good reason for Government economic assistance to those in need.

The situation in Mississippi may well lie outside the normal range of expectations and have been beyond the control of those involved. But the evidence has not been developed or presented—at least so far. But, even if no one is to blame for the contaminated chickens in Mississippi, the Federal Government should assist only those who really need help. Perhaps everyone involved meets this requirement, but again, the evidence has not been systematically developed or presented.

Given all of this, it should be worthwhile to examine some of the specifics of the bill and the situation of the affected growers, producers, and processors.

We do know this much:

The contamination of the poultry apparently is the result of dieldrin in the poultry-feed oils mixed with other feed grains.

The major losses have been sustained by five integrated feeding companies. These five broiler feeding operators have contracted with about 700 growers as well as one or more broiler breeder operators. These large companies conduct operations which involve combinations of either feed mixing, hatching, breeding, growing, slaughtering, and/or processing.

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

Mr. CLARK. I yield myself 4 additional minutes.

The approximately 700 growers are primarily family farmers who contract to provide buildings, equipment, and labor for the grower phase of the operation. They are normally paid according to the number of birds grown.

The contract grower typically does not buy either the chickens or the feed and so stands to lose the price of his labor, overhead, and profit if the integrator does not make his payment. Each contaminated flock will represent up to 25 percent of the total grown by a contract grower this year.

Losses for the integrator—who contracts, manages, and owns the chickens—are expected to range from 75 cents to $1 for each bird.

The Food and Drug Administration is investigating the possibility that the contamination was deliberate.

However, there are many things we do not know about this situation:

We do not know the final number of contaminated chickens.

We do not yet know precisely how the contamination entered the feeding process.

We do not know the Department of Agriculture's position on the bill, because the Department says it needs more information before it can take a position.

We do not know if independent growers are affected as well as those growers under contract to integrated operators.

We do not know the extent of liability which might be assessed against the source of the contamination.

We do not know whether the parties that may be at fault are insured against damages resulting from contamination.

We do not know whether the innocent parties are insured against loss.

We do not know what specific precautions must be taken to prevent such cases in the future.

It is clear that much more information is needed before the Senate can act responsibly.

People often perceive the Congress as slow moving, unresponsive, and influenced by special interests. S. 3231 may or may not qualify as "special interest" legislation, but some people consider it to be just that. If the Senate rushes to pass this legislation without hearings, while many other urgent needs are not resolved, its reputation cannot be enhanced. If it is good legislation, it can withstand the scrutiny of public hearings. Its sponsors should welcome the opportunity to demonstrate the need for S. 3231 in public hearings.

The Committee on Agriculture and Forestry apparently is sympathetic to this bill and it certainly will provide for hearings at the earliest possible time. I am sure the chairman would agree to that, and then we could consider the matter, then we could get people here to tell us where the money is going and in what amounts.

Mr. President, I ask unanimous consent that supporting documents, including letters from the Department of Agriculture and the Food and Drug Administration, and several newspaper articles be printed in the RECORD.

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

DEPARTMENT OF AGRICULTURE,
Washington, D.C., April 22, 1974.

Hon. DICK CLARK,
U.S. Senate,

DEAR SENATOR CLARK: The following information is provided in response to a telephone call this morning from Mr. Williamson of your staff to Dr. F. J. Mulhern, Administrator, Animal and Plant Health Inspection Service.

The Department's position regarding H.R. 13747, H.R. 13906, and on S. 3231 is that much more information is needed before it can state whether it is for or against these bills. For example, we must still learn the cause of the problem, the extent of liability to be assesed against the source of the contamination, and what remedial steps can be taken to prevent its recurrence.

Any compensation legislation should be carefully tailored to meet unique needs in the instant situation and should specify remedial conditions. It should remain in effect only until such remedial conditions are met but in no event later than December 31, 1974.

Sincerely,

JOHN C. FOLTZ,
Deputy Under Secretary for Legislative Affairs.

FOOD AND DRUG ADMINISTRATION,
Rockville, Md., April 23, 1974,

Hon. DICK CLARK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CLARK: This is in reply to a telephone request of April 22, 1974, from Mr. Williamson of your staff, for information concerning dieldrin in animal feeds.

On March 14, the Food and Drug Administration (FDA) was advised by the U.S. Department of Agriculture that chickens in Mississippi had been contaminated with the insecticide dieldrin. Following this report, FDA embarked on an extensive investigational program to determine the cause of the contamination. The following explains actions to this time:

The Food and Drug Administration has collected over 600 samples of feed and feed constituents, such as animal and vegetable oils. The majority have been analyzed and have been free of dieldrin. Evaluation of the data collected thus far indicates that the source of the contamination is primarily the blended fats and oils used in the poultry feed. Four recalls of such oil products are underway. They are being made by:

Mississippi Vegetable Oil Company, Pearl, Mississippi.

Dixie Industries, Jackson, Mississippi.

Southern Rendering Company, Little Rock, Arkansas.

Ultra Life Laboratories, Inc., Holland, Illinois.

The necessity for other recalls and legal actions is currently under evaluation.

There are no established tolerances for residues of dieldrin in animal feeds and animal feed ingredients. The Environmental Protection Agency (EPA), which has responsibility to set tolerances for insecticides, has advised FDA that in the absence of such tolerances feed constituents above 0.15 parts per million (ppm) and finished feeds above 0.03 ppm are actionable. FDA is working with EPA to assure that disposal of contaminated oil stocks will not result in environmental pollution.

The Food and Drug Administration's investigation has also disclosed that some vegetable oil designed for industrial use may have been diverted to feed use. Such oil, called "deodorized distillate" or "clabberstock" is a by-product of the vegetable oil refining process. If impurities such as dieldrin are present in the original oil, they will be concentrated in the "deodorized distillate." A common use for this by-product is as a lubricant for oil well drilling operations. FDA has analyzed a number of samples of this type of product and has found dieldrin

levels of up to 58 ppm. Other samples have, however, been free of dieldrin.

Additional details on this continuing survey program will be provided as they become available.

If we can be of further assistance, please let us know.

Sincerely yours,

ROBERT C. WETHERELL,
Acting Director Office of Legislative Services

[From the New York Times, Apr. 19, 1974]

ANIMAL FEED OILS TAINTED BY INSECTICIDE RECALLED

(By Victor K. McElheny)

Several hundred thousand pounds of vegetable and animal oils, intended for mixing with the feed of chickens and other animals but contaminated with the insecticide dieldrin, have been recalled from sale by dealers in Mississippi and Arkansas, spokesmen for the Food and Drug Administration said yesterday.

The F.D.A. requested recalls followed the slaughter of several million chickens by Mississippi growers. Testing by the United States Department of Agriculture had shown the chickens and their oil feed supplements contained dangerous amounts of the insecticide traces of which cause cancer in laboratory mice and rats.

The dieldrin contamination problem with chickens in Magee and Pearl, Miss., disclosed by the Department of Agriculture to the F.D.A. March 14, set off a national program of sampling batches of feed constituents and animal and vegetable oils used as feed supplements.

The spokesmen said the sampling was continuing, and that further recall actions had been requested or were being studied.

According to the drug agency, most of the 608 samples taken to date have been analyzed and "a large majority" of the oil batches did not contain dieldrin.

PROBLEM IS RESTRICTED

The F.D.A. does not have evidence, of dieldrin contamination of the highly filtered vegetable oils used in such human food as oleomargarine.

So far, the problem has been restricted to chicken growers and oil dealers in the Deep South. Thus, there is no evidence to date that the main sources of chicken reaching East Coast areas such as New York City are affected.

So far the sampling program has not traced to the orgins of the contamination. Don Berreth, F.D.A.'s press officer, said the investigation had begun with the assumption that the source was a single accident.

But the discovery of dieldrin in several different types of batches, he said, did not point to a single source. "We have not found any single accident to this point. We're still looking," Mr. Berreth said.

Attention is focusing now on a second possibility, the diversion of a dieldrin-contaminated fraction of vegetable oil—the so-called "deodorized distillate" normally sold as an industrial lubricant—into oil feed-supplements. The reasons for this diversion, if it has occurred, would be "economic," investigators assume.

The F.D.A.'s understanding of vegetable oil refining indicates that these processes would virtually eliminate any contamination by chlorinated hydrocarbon insecticides, such as dieldrin, from all fraction of the oil except the "deordorized distillate" residue.

Refining Process

After the oil is squeezed out of such sources as soybeans, it is treated with sodium hydroxide and spun in centrifuges. Lighter oils, including those that will end up as human and animal food, rise to the top. Alkaline substances to be used for such things as soap sink toward the bottom.

After the oil is separated from the "soapstock," it is treated with more alkaline agents and filtered and bleached, and perhaps treated with hydrogen.

Then, the oils are distilled and deodorized by such means as repeated "purgings" with steam, leaving behind a kind of sludge containing chemicals called stearols, tocopherols, coloring matter, and possibly insecticides. This "deodorized distillate" is also called "clabber stock," and is not intended for sale as food.

Citing an article published in a chemical journal in 1968, an internal F.D.A. memorandum prepared this month states:

"Research has been done on the removal of chlorinated pesticides from crude vegetable oil, and it has been found that hydrogenation and deodorization-distillation eliminates chlorinated pesticides from commercially processed vegetable oils for human consumption."

ENVIRONMENTAL FEARS

Disclosure of the animal feed contamination by dieldrin aroused strong interest in the Environmental Protection Agency, which has been conducting hearings since last summer on moves to end agricultural use of dieldrin and a related chemical aldrin.

Scientists advising the E.P.A. have been interested in the possibility that aldrin and dieldrin sprayed to combat insects that attack the roots of corn plants could enter the food chain to man by way of soybeans planted on fields where corn was planted the previous year. The soybeans help restore nitrogen pulled from the soil by the corn plants.

In the hearings before Judge Herbert L. Perlman, the E.P.A. has cited evidence that soybean plants take up dieldrin from the soil far more readily than corn plants. The dieldrin taken up results from conversion in nature from the aldrin originally sprayed.

In the current situation, scientists advising E.P.A. have raised the possibility that the contamination noted in Mississippi would result from normal agricultural use of aldrin. Thus, the contamination might be widespread.

Reducing such a risk, it is acknowledged, is that fact that only a portion of the nearly 60 million acres planted for soybeans last year had been planted for corn before and the finding that vegetable oil processing seems to put insecticides like dieldrin into only one fraction of the oil—one that is not intended for animal or human use but which could be "diverted."

[From the Washington Star-News, Apr. 20, 1974]

DIELDRIN IN FEED DELIBERATE?

(By Judith Randal)

A nationwide sampling of feed and feed supplements set off by the discovery last month that millions of Mississippi chickens were tainted by large residues of insecticides has led the Food and Drug Administration to suspect that the contamination may have been—at least in part—a deliberate move to cut production costs.

According to Don Berreth of the FDA press office, some of the 608 samples of feed and feed supplements collected to date have been analyzed and mostly found free of dieldrin—a pesticide which in trace amounts is known to cause cancer in mice and rats and is suspect as a cause of cancer in man.

But there is at least one exception among the samples, he added, and legal action, including injunctions against those involved, is a definite possibility. He would not specifically identify the product or its manufacturer.

Vegetable oils and some solids that become feed components, Berreth explained, are derived from plants like soybeans that have been exposed to dieldrin because they are grown—to restore nitrogen to the soil—on the same land as crops such as cotton which are sprayed with the pesticide.

But under normal circumstances centrifuging and other processing separates the oil into two kinds of fractions—those for industrial purposes which retain some dieldrin and those intended for poultry and livestock feed from which the chemical is supposed to be removed.

While it was first thought that cheaper industrial grade oil accidentally had been substituted for the feed grade oils, Berreth said, there is now growing reason to ask if the diversion may not have been intentional. Levels of dieldrin as high as 58 parts per million have been found in some feed oil samples. As few as 1 part per million is enough to cause cancer in some strains of mice.

Adding fuel to the speculation is a bill that has not yet been reported out of committee in the House, but which is scheduled for debate in the Senate Tuesday. Introduced in early April by Sen. James O. Eastland, D-Miss., it would indemnify farmers who have to slaughter their chickens because of dieldrin contamination for about $1 a bird through 1977. With several million chickens already killed, the bill might cost the taxpayer $1 billion or more eventually should it become law.

Sources familiar with both the history of the problem and the proposed legislation point out that the farmers who raise most of the chickens in question do so under contract with feed companies which typically supply nutrients for the poultry flocks as part of the deal.

Thus, they say, substitution of cheaper industrial grade material for feed grade nutrients could have served as a cost cutting measure for these companies in many cases had it not been discovered. Moreover, they add, the feed companies could well benefit more than individual farmers if the indemnity measure became law.

The Nixon administration has, for the most part, been lobbying behind the scenes in support of the measure, according to congressional sources. Some feel that this may be because the bill's sponsors—in addition to Eastland—include Sen. Edward Gurney, D-Fla., Sen. John Sparkman, D-Ala., and other conservative senators of both parties whom President Nixon hopes he can count on to find him innocent if he is tried on impeachment charges brought by the House.

The Agriculture Department, however, is opposed to the indemnity bill. "We want maximum encouragement for industry to assume responsibility for its products," Dr. F. J. Mulhern, USDA administrator of the animal and plant health inspection service, told a House Agriculture subcommittee during a hearing April 10th.

"The chief incentive is fear of financial loss if products are banned. When all losses are paid back by the federal government, the incentive is destroyed. Open-ended indemnities provided at no cost to the businessman could work to reward those businessmen who ignore the risks."

With indemnity action pending in Congress, the FDA has meanwhile recalled hundreds of thousands of pounds of dieldrin-adulterated vegetable and animal oils. The action, taken Thursday, involved products made by three companies supplying feed dealers in Mississippi and Arkansas.

Dieldrin, however, is also of interest to the Environmental Protection Agency. The EPA has since February 1971 sought to ban the manufacture and distribution of the insecticide and a related agricultural chemical called aldrin because of growing evidence that they get into the food chain and are consumed by man even when not incorporated into animal feeds.

Both products are made by the Shell Chemical Co., an affiliate of the Shell Oil Co. Shell was asked by EPA in a letter written April 5th if it would consider not making next year's supply of the pesticides. Acting for the company, William D. Rogers of the

Washington Law firm of Arnold and Porter has so far refused to consider such a move.

[From the Washington Post, Apr. 23, 1974]

QUESTIONS ON INDEMNIFICATION

About a month ago, news reports from Mississippi told of poultry farmers there whose flocks of chickens had to be destroyed because of excessive levels of dieldrin, a powerful insecticide that is potentially harmful to human beings. The poultry industry is a large one in Mississippi, and an estimated 22 million birds have been banned from the market. Acting on behalf of this part of their constituency, Mississippi's senators James O. Eastland and John C. Stennis, quickly introduced legislation to indemnify the growers, producers and processors of poultry products who suffered economic losses. The bill is scheduled for debate in the Senate today.

There is little to recommend the bill. In the first place, it has come to the Senate floor, via the Agriculture Committee, without the benefit of hearings. You would think that if the public's money is going to be spent—an estimate of $10 million is being discussed—then the public or some of its representatives would have a chance to express their views. In the past, when proposals have come up on spending public money on foodstamps or agricultural commodities for the poor, Senator Eastland and the Agriculture Committee usually have shown intense interest in full hearings. The House, not in such a hurry as the Senate Agriculture Committee, did hold hearings. Dr. F. J. Mulhern of the U.S. Department of Agriculture, noted that "there are many things we do not yet know about the Mississippi situation." He said that while the USDA "is sympathetic to the plight of the [poultry] industry and its employees, it does not recommend full assumption by the federal government of the indemnity cost of this and future incidents." Mr. Mulhern went on to discuss any new indemnity legislation, noting that when losses are paid back by the government, "incentive is destroyed. Open ended indemnities provided at no cost to the businessman could work to reward those businessmen who ignore the risks."

Aside from the quickie nature of this bill, another argument against it is that the Food and Drug Administration is currently investigating the larger issue of dieldrin, of which the Mississippi case is but a part. The FDA has already asked for the recall of four vegetable oil products intended for use in animal feed because the level of dieldrin is higher than what is acceptable for safety. The FDA has yet to discover that dieldrin has gotten into the animal feed chain by an accident. Instead of hastily rushing in with money for this industry, it would be wiser to learn more facts about how it has been using this potent chemical.

Indemnification bills have come up in Congress before. A recent well-known case involved cyclamates. Segments of the soft drink industry came to Congress with open hands, but they were turned away when Congress had the opportunity to consider their case. In the poultry indemnity bill, what is needed is at least to recommit the bill to the Agriculture Committee, as provided for by an amendment introduced by Sen. Richard C. Clark (D-Iowa). But even recommital might be too generous a fate for this bill. Its hasty preparation, the questions raised by the FDA and the precedent it might establish all suggest that the bill's sponsors have a misguided view of the purposes of the public treasury.

Mr. CLARK. Mr. President, after all the time has expired—but before amendments are offered—I will move to recommit the pending legislation.

I reserve the remainder of my time.

Mr. EASTLAND. Mr. President, I ask unanimous consent for the following members of the staff of the Senate Committee on Agriculture and Forestry to be on the Floor of the Senate during debate on S. 3231, the Poultry Indemnity Payments legislation: Michael McLeod, Carl Rose, Henry Casso, Forest Reece, and Dale Stansbury.

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

Mr. EASTLAND. I yield to my colleague such time as he may require.

Mr. STENNIS. Mr. President, I thank my colleague from Mississippi. I shall not take a great deal of the Senate's time.

Let me point out, I hope with emphasis, Mr. President, that there is nothing new and nothing unusual about this kind of legislation. In fact, I know that we have statutes on our books in Mississippi, and have had for 35 or 40 years or more, providing for indemnity or partial indemnity for livestock that was diseased and ordered destroyed by the State or the Federal Government. In this case these chickens were not, of course, directly subjected to a disease that affects simply poultry; it was a contamination that could also affect human beings.

Mr. President, I want to emphasize that there is nothing new or novel about this matter. It is a State policy in our State and I think in many other States. The statute to which I refer, passed some 40 years ago, as I recall, gave partial indemnification for cattle destroyed for foot and mouth disease, and certain other diseases of cattle.

We have a statute in Mississippi now whereby the legislature has empowered the Governor at any time to spend or borrow a certain amount of money to compensate the owners for the cattle that might have been condemned by State or Federal authorities because of foot and mouth disease.

I have served on the Appropriations Committee for a good number of years and over and over again we have made appropriations, when brucellosis was involved, for instance, trying to eliminate it. The Department of Agriculture and the beef cattle association would come in and testify and the money would be appropriated. We have had a milk indemnity program here within the past 10 years. I remember that we appropriated money for that. Bees that had been affected by poisons were also involved. Now we have chickens as another illustration. None of them are exactly on all fours. Each case is a little different. But basically the principle is the same.

The growers and their employees were complying with the law in doing what they thought was the safe thing and had no indication whatever to the contrary. The Federal inspectors found this situation to exist and they got 100 percent cooperation from every single grower involved. Some of the operators living next door, so to speak, had chickens which were not affected. So this shows how innocent the grower and their employees were in this entire matter.

I remember one thing about it, that there had been arrangements made to destroy the chickens that were dangerous for human consumption. There was some delay. The growers spent thousands of dollars a day feeding the chickens that they knew within a few days would have to be destroyed under the Government mandate. They did not have to be driven to it. They knew they would have to destroy them in order to meet a situation that would be safe for the American consumer.

Through their cooperation, the promptness of the growers and the efficiency of the Federal inspectors, this thing was taken care of and not one single contaminated chicken reached the counter of any store. Not one. So human life was protected. The innocent were protected and effectively protected. It was promptly done. The growers did everything that could possibly be done under the circumstances.

We are not asking for any favors. Of course not. There is no guilt involved here. The law has been followed to protect the public.

Some of the chickens in Mississippi go to California, Illinois, Michigan—everywhere. People everywhere were protected. We got results. Everything came out all right. I believe that when this matter is understood, and understood by the membership here, we will have an overwhelming vote in favor of the bill. No one Senator wants to do the wrong thing or to do the unjust thing. It is a matter of understanding the situation as it is.

Mr. LONG. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I am happy to yield to the Senator from Louisiana.

Mr. LONG. I will vote with the Senator on this matter. If the Senate should fail to provide this relief, then it would, indirectly, be providing an incentive for producers to gloss over or to cover up contamination were it to exist. So that the last thing on Earth we want done is for anyone to think that food might be contaminated. We would not want that passed on to the consumer. But if there is no relief provided, where it is not the fault of the producer, we would be setting an example so that people might be willing to take a chance and pass on to the public something that might not be safe.

Mr. STENNIS. That is an excellent point. The Senator has made an excellent point. In this case, the housewife, the purchaser, did not have to take a chance. The thing was nipped in the bud effectively. There was no worry on the part of the housewife who buys her groceries. The word went out from the Department of Agriculture promptly that this thing had been stopped.

Mr. President, S. 3231 would compensate egg producers, growers and processors who have had to destroy their poultry due to it being contaminated with a pesticide called dieldrin. The bill would also compensate the producers for the cost of disposing of their flocks. It would also compensate the employees of the producers for lost wages as a result of this catastrophe.

It would not pay those persons who lost poultry by not following Federal law and procedures prescribed in the use of

chemicals or feed. It only seeks to help the innocent producer.

Five poultry producers and over 2,000 employees are involved here. These producers, all from Mississippi, took immediate action after learning that some of their chicken flocks contained an excess level of dieldrin. Meetings in Washington were set up right away with appropriate government officials. Shortly thereafter, personnel from the U.S. Department of Agriculture, Environmental Protection Agency and the Food and Drug Administration were at work in my State to try and discover the source of contamination and prevent the affected poultry from reaching the market. The affected producers cooperated fully with the U.S. Department of Agriculture, Environmental Protection Agency and the Food and Drug Administration, and as a result none of the contaminated poultry reached the market.

The source of contamination was a feed ingredient sold and delivered to the five affected producers. In no way were the producers responsible for the contamination.

Mr. President, it may be necessary to eventually destroy 8 million chickens. It will be weeks before these producers can be fully operational again. During this period of time plants will be idle, employees will be jobless and the economy in general will suffer.

Chicken is a low-cost food item, and to keep it that way it is necessary to produce as much poultry as possible. We cannot do this with idle plants and idle workers.

Every Government agency connected with this matter has offered nothing but praise for the cooperative attitude displayed by the five producers. I believe it is imperative that we pass this bill and get these people back on their feet.

We have helped the dairy people and the bee people in the past when such catastrophes struck them. I think we can do no less for these people involved in the poultry business. This relief is desperately needed. I commend the Senate Agriculture Committee for its expeditious handling of this bill. I hope the Senate will act likewise.

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

Mr. GRIFFIN. The time agreement previously entered into, it has been observed by some Senators, provides a relatively short period of time for the consideration of amendments. I believe it now provides for 20 minutes on 2 amendments and 10 minutes on other amendments. I wonder if the distinguished majority leader would agree to a half hour on any amendment, with the time to be equally divided.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the previous order be changed accordingly and that there be one-half hour on each amendment, to be equally divided and controlled on the same basis as originally entered into.

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

Mr. CLARK. Mr. President, how much time remains on each side?

The PRESIDING OFFICER (Mr. HATHAWAY). The Senator from Iowa has 11 minutes remaining, and the Senator from Mississippi has 13 minutes remaining.

Mr. CLARK. I thank the Chair.

Mr. President, I yield myself such time as I may require.

There are several significant differences between the dairy indemnity—now in its 10th year—and the proposed poultry indemnity program.

Hearings—the dairy indemnity program went through normal legislative channels with full hearings in both Houses. Furthermore, in its entire 10 years, it does not begin to compare with the cost of this program.

Cost—the dairy program has been in operation since 1964, and the total payments made in its 10 years come to only $1.5 million, with a maximum of $275,000 in 1 year. In this bill, the poultry bill, we are talking of spending $10 million for this one incident, and it may eventually cost many times that amount.

Distribution of payments—no one farmer has received a large payment for dairy indemnification. None. Under the poultry bill, several individuals apparently would each receive more than the total that has been paid in 10 years of dairy indemnification.

Sharing of financial responsibility—under the dairy program, farmers must starve their cattle to make them lose the contaminated fatty tissue.

The milk produced during this process is destroyed, and then paid for by the Government. However, milk production falls substantially due to the starving process. The farmer is paid only for the milk produced and then destroyed. He is not paid for the lost milk production. So, he still absorbs a significant financial loss and has a strong financial incentive to prevent the use of contaminated feed.

The beekeeper indemnity program is similar to this bill. It is the only other example that does compare with it. That legislation indemnifies beekeepers on losses of stands of bees killed by insecticides, rather than on pollution of the honey. In 1972, $2.9 million were paid, in 1973, the total was $6.6 million. There is no significant financial responsibility assumed by the beekeeprs, as in the dairy program. This is undoubtedly one of the reasons that the beekeeper indemnity program is becoming so expensive.

Now, I think that the very fact this program of bee indemnification has become so expensive should give us some warning that we should move carefully and cautiously before we go into a second program of that nature.

Mr. President, before yielding back my time and offering my motion for recommittal, I should like briefly to summarize why I think we should recommit the bill.

First of all, we should not undertake a measure of this kind without hearings, without very careful consideration. That is not asking very much. As I said earlier, I am confident that the Agricultural Committee will hold hearings very soon, that we could bring in all interested parties on both sides, that we could in a very few days have the bill back on the floor after it had been considered carefully. That is really all I am asking—that we give careful consideration. That has not yet been done. We have had only the very briefest discussion in the committee, and that is the basis of my opposition here.

Above all else, I am concerned about who is going to get the money. There are good indications that 90 percent of the money is going to go to just five large companies. That is information from the House hearings, and perhaps that is not really the case. But certainly, before we start indemnifying a few companies with $8 million to $10 million, that ought to be considered very, very carefully. Who is going to receive the money, and in what amounts?

Finally, I think we ought to be very concerned about the Federal Government conducting private lawsuits against other private companies to recover these indemnity payments. Why should not the private parties who were damaged sue? Why the Federal Government? To the best of my knowledge, we have never done that before in any piece of legislation.

Those are the basic reasons why I want to recommit this bill. It raises so many questions, so many doubts.

If the sponsors of the bill are prepared to yield back their time, I am prepared to yield back my time and to move for recommittal.

Mr. EASTLAND. I yield myself 3 minutes.

Mr. President, rumors are being spread that some of these producers have insurance. That is untrue. No insurance is available.

The Senator from Iowa compares the dairy program with this bill. In the dairy program, the farmer keeps a cow; he is compensated for the milk. In the broiler program, the chicken is destroyed and disposed of.

Here, 7,600,000 broilers were ordered killed, and that slaughter was supervised by the Environmental Protection Agency. They have all the facts, the numbers, the figures, the amounts, and it is something that would be handled very easily.

I am informed that the dairy amendment was offered to another bill here on the floor, without hearing. I think it is a good bill, a good program that has worked well.

Mr. CLARK. Mr. President, I ask for the yeas and nays on my motion

The PRESIDING OFFICER. Has the Senator from Iowa made the motion to recommit?

Mr. CLARK. I do not think the motion is in order yet.

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

The PRESIDING OFFICER. On whose time?

Mr. HELMS. I ask unanimous consent that the time not be charged to either side.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CLARK. 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 CLARK. Mr. President, I move to recommit the pending bill, S. 3231, and I ask for the yeas and nays.

The yeas and nays were not ordered.

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

The PRESIDING OFFICER. On whose time?

Mr. CLARK. The time to be charged to neither side.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, I ask unanimous consent that the vote on the motion to recommit occur at 1:45.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. 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.

RECESS TO 1:45 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 1:45 p.m.

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

Thereupon, at 1:21 p.m., the Senate took a recess until 1:45 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

The PRESIDING OFFICER (Mr. HATHAWAY). The Senate will come to order.

The question is on agreeing to the motion to recommit the bill.

Mr. CLARK. 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. CLARK. 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. CLARK. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. EASTLAND. Mr. President, will the distinguished Senator from Iowa yield back his time?

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

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

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the motion to recommit the bill. 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 Nevada (Mr. BIBLE), the Senator from Florida (Mr. CHILES), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. METCALF), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Hawaii (Mr. FONG), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I also announce that the Senator from Utah (Mr. BENNETT), the Senator from Maryland (Mr. MATHIAS), the Senator from Delaware (Mr. ROTH), and the Senator from Pennsylvania (Mr. SCOTT) are necessarily absent on official business.

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

The result was announced—yeas 36, nays 47, as follows:

[No. 147 Leg.]

YEAS—36

Abourezk	Griffin	Pell
Beall	Hart	Percy
Biden	Haskell	Proxmire
Buckley	Hatfield	Ribicoff
Byrd, Harry F., Jr.	Hathaway	Schweiker
Cannon	Hruska	Scott, William L.
Church	Hughes	Stafford
Clark	Mansfield	Stevens
Cook	McIntyre	Stevenson
Cotton	Moss	Tower
Dominick	Muskie	Weicker
Eagleton	Packwood	
	Pastore	

NAYS—47

Aiken	Fannin	McGee
Allen	Goldwater	McGovern
Baker	Gurney	Mondale
Bartlett	Hansen	Montoya
Bayh	Helms	Nunn
Bellmon	Hollings	Pearson
Bentsen	Huddleston	Randolph
Brock	Humphrey	Sparkman
Burdick	Inouye	Stennis
Byrd, Robert C.	Jackson	Symington
Case	Javits	Talmadge
Cranston	Johnston	Thurmond
Curtis	Long	Tunney
Dole	Magnuson	Williams
Domenici	McClellan	Young
Eastland	McClure	

NOT VOTING—17

Bennett	Fong	Metzenbaum
Bible	Gravel	Nelson
Brooke	Hartke	Roth
Chiles	Kennedy	Scott, Hugh
Ervin	Mathias	Taft
Fulbright	Metcalf	

So the motion to recommit was rejected.

Mr. CLARK. Mr. President, I ask unanimous consent that it may be in order to order the yeas and nays on three amendments which I intend to call up, amendments Nos. 1191, 1192, and 1193, and that the yeas and nays be in order following debate on all three amendments.

Mr. GRIFFIN. Mr. President, reserving the right to object, is there an agreement that the Senator from Iowa will be recognized for each of those amendments in succession? That has not been agreed to yet, has it?

The PRESIDING OFFICER (Mr. HELMS). It has not.

Mr. GRIFFIN. This request is merely to ask for the yeas and nays then.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on all three amendments enunciated by the Senator from Iowa (Mr. CLARK).

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

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

The yeas and nays were ordered.

AMENDMENT NO. 1192

Mr. CLARK. Mr. President, I call up my amendment No. 1192 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 4, line 13, strike out "1977" and insert "1974".

Mr. CLARK. Mr. President, this amendment changes the expiration date of the act from December 31, 1977, to December 31, 1974. The reason for this amendment is a simple one, and it has been well explained in my previous statements on the bill.

The growers and producers in Mississippi who have suffered losses due to the recent dieldrin poisoning will still receive their indemnity payments, but there is simply no reason to write an open ended guarantee of indemnification until the end of 1977. An extended guarantee would only reduce the incentive for producers, feed manufacturers, dealers, and distributors to insure that dieldrin and other chemicals are not present.

As written, the bill provides a guarantee that is not available to any other livestock producers, and it would commit the Government to spending an unknown amount of money.

Mr. EASTLAND. Mr. President, will the Senator from Iowa yield?

Mr. CLARK. I yield.

Mr. EASTLAND. We will accept that amendment.

Mr. CLARK. Mr. President, I ask unanimous consent to withdraw the yeas and nays on my amendment No. 1192.

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

The question is on agreeing to the amendment of the Senator from Iowa (Mr. CLARK) No. 1192.

The amendment was agreed to.

AMENDMENT NO. 1191

Mr. CLARK. Mr. President, I call up my amendment No. 1191 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 2, line 24, after "use," insert "and who are limited in their ability to absorb losses and costs resulting therefrom,".

Mr. CLARK. Mr. President, this amendment limits payment to those "who are limited in their ability to absorb losses" resulting from the dieldrin contamination.

I have serious reservations about the need for any indemnity payment. But, if payments are to be made, they should go only to those who are threatened with serious financial trouble as a result of the

contamination. Any responsibility of the Government to assume part of the risk of doing business should be limited to instances of severe financial hardships brought on by unexpected and uncontrollable losses. As I mentioned earlier, there are many risks involved in running any business, and only in exceptional circumstances should the Government assume some of these risks.

Mr. PASTORE. Mr. President, we can hear everyone except the man who has the right to the floor at this time. May we have order in the Senate?

The PRESIDING OFFICER. The Senator's point is well taken.

The Senate will please come to order.

Mr. CLARK. Mr. President, there is a limit to the financial hardship that an individual or company can withstand. If financial ruin is the result of the contamination, it may be altogether proper for the Government to provide some assistance.

However, this is not the same as saying that all financial losses should be reimbursed, or even that all large financial losses should be reimbursed. The size of the loss should not be the decisive factor. The financial condition of the individual or company after the loss should determine whether payment is to be made. If they are still financially sound, there should be no indemnification regardless of the magnitude of the loss.

It has been argued that the chicken producers in Mississippi will be bankrupt or destitute if payment is not made. If that is the case, then the sponsors of the bill under consideration should not object to this amendment.

Mr. EASTLAND. Mr. President, as has been brought out in debate, we have a number of these programs—on bees, milk, Newcastle disease, cranberries, where we bought the crop when it could not be sold. This provision has been in none of them. We are giving it—we are paying it—in case of loss instead of in place of need. I think it is a bad amendment. It is discrimination of the rankest kind, because all these other programs contain no such provision.

In the Senator's own State, the Government has paid $26,323 for bees, with no provision such as this. It has paid $64,162 under the milk indemnity program without any provision such as this. Why does the Senator pick on one State?

We spent $400 million in Mexico to clean up hoof-and-mouth disease and then made them a present of thousands of mules to do the work down there, without any provision such as this. Why pick on my State? Why discriminate against my State? That is what this is.

I hope the amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. CLARK. I yield myself 1 minute.

Mr. President, I believe that the major problem most people have with regard to this bill is the fear that a few companies—perhaps as few as five, will receive as much as 90 percent of this $8 million to $10 million indemnity. This amendment is designed to prevent that abuse of the indemnity program. If those companies are not able to absorb the loss, they will be indemnified, but not under any other circumstances.

There is a vast difference between the State of Iowa receiving $40,000 in 1 year and five companies receiving $8 million to $10 million in 1 year.

I think the dairy indemnity bill has been a very modest bill. It has done well what it was designed to do. We have spent only $1.5 million in a decade. I believe that is a reasonable amount to spend. But when we propose now to indemnify as few as five companies with millions of dollars, when those companies may be able to stand that loss, then it seems to me that we have simply gone too far.

I urge the adoption of this amendment, and I am prepared to yield back the remainder of my time.

Mr. STENNIS. Mr. President, will the Senator yield me 1 minute?

Mr. EASTLAND. I yield.

Mr. STENNIS. Mr. President, I should like to make one point. This may look good on paper, but even the larger companies were all small. They started out with virtually nothing. They fed these chickens for a week or more, while testing was completed, as I understand. It cost them many thousands of dollars, when they knew they were going to slaughter them and bury them later. But to meet all requirements—and they were cooperating in every possible way—they went to this extra expense, through the Government's demands. As my colleague has said, this proposed amendment is rank discrimination, and I hope the amendment will be rejected.

Mr. EASTLAND. Mr. President, I yield to the distinguished Senator from Vermont.

Mr. AIKEN. Mr. President, I may be offering a little ancient history, but I believe that two disasters occurred in this country in 1948. One was in the city of Ottumwa, Iowa, which was virtually submerged by a flood. The other was in Texas City, Tex., which had been blown to pieces by an explosion.

At that time I offered an amendment to a then pending bill which established the first general Federal disaster assistance program for all parts of this country. It was accepted at that time. Ever since then I have felt that a disaster is a disaster, whether it is $10 million worth of chickens lost or a city devastated by an explosion or by a flood.

I believe that what is fair for one State is fair for another. That is why I was extremely disappointed 2 weeks ago, when the tornado disaster legislation was being considered, that States that suffered damage prior to April 1 of this year were not included in the special disaster grant program that is proposed in the new legislation.

But as I say, if you lose a million dollars from chickens, you have lost it just as thoroughly as if you lost it from an explosion or a flood. What was good for Ottumwa, Iowa, and Texas City, Tex., should be good for Mississippi.

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

Mr. EASTLAND. I yield.

Mr. GRIFFIN. Mr. President, earlier I voted to recommit this bill to the Committee on Agriculture because I believe hearings should at least be held. Furthermore, I believe a general policy should be developed—a policy that would apply, with appropriate limitations in other similar situations as well as in this one.

The pending amendment offered by the Senator from Iowa seeks to limit recovery and I can agree with his objective. But I shall vote against his amendment because the language he proposes would impose an impossible job on the Secretary of Agriculture. The amendment would allow indemnification to those "who are limited in their ability to absorb losses and costs resulting therefrom."

Those words provide no standard at all. Everyone, even the wealthiest chicken farmer, is limited to some extent in his ability to absorb losses.

If adopted, the amendment would hand the Secretary of Agriculture an impossible job to perform with no real standards or limits to apply.

Since I do not believe the amendment would improve the bill. I shall vote against it.

The PRESIDING OFFICER. Who yields time?

Mr. CLARK. I yield myself 2 minutes.

Mr. President, I am very much in favor of providing assistance to people who suffer from natural disasters. I voted for the disaster relief bill and worked on the disaster relief bill that passed 2 weeks ago. But each of those disaster relief bills provided low-interest loans. The people in Xenia, Ohio, are not going to be fully indemnified; neither are the other people who have suffered from floods or tornadoes or any other natural disaster. We have never provided full indemnity for such natural disasters.

From time to time, we have provided some additional grant money, as we did in the bill 2 weeks ago. There was a great controversy a year ago, when I first came to the Senate, over the $5,000 forgiveness feature for people who had suffered losses, regardless of need. I recall well that in the Committee on Agriculture and Forestry and in the Committee on Public Works we felt that that was bad legislation—simply to turn over $5,000 to anybody who had suffered from a natural disaster, regardless of need. We voted very wisely not to do that.

Now we are suggesting that we ought to be prepared to turn over millions of dollars to four or five companies, regardless of need.

If we can have some assurance from the sponsors of the bill that that is not going to happen—that four or five companies are not going to receive 90 percent—many of us would view this legislation differently.

Mr. President, I am prepared to yield back the remainder of my time if the opponents of the amendment are prepared to yield back their time.

Mr. EASTLAND. I yield back my time.

Mr. CLARK. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator

from Iowa. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from Florida (Mr. CHILES), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), and the Senator from Hawaii (Mr. FONG) are necessarily absent.

I also announce that the Senator from Utah (Mr. BENNETT), Senator from Maryland (Mr. MATHIAS), Senator from Delaware (Mr. ROTH), and the Senator from Pennsylvania (Mr. SCOTT) are absent on official business.

The result was announced—yeas 23, nays 62, as follows:

[No. 148 Leg.]

YEAS—23

Baker	Hatfield	Percy
Church	Hruska	Proxmire
Clark	Hughes	Ribicoff
Cook	Javits	Schweiker
Cranston	McIntyre	Scott, William L.
Eagleton	Metcalf	Stevenson
Hart	Moss	Weicker
Haskell	Pastore	

NAYS—62

Abourezk	Dominick	McGovern
Aiken	Eastland	Mondale
Allen	Fannin	Montoya
Bartlett	Goldwater	Muskie
Bayh	Griffin	Nunn
Beall	Gurney	Packwood
Bellmon	Hansen	Pearson
Bentsen	Hathaway	Pell
Biden	Helms	Randolph
Brock	Hollings	Sparkman
Buckley	Huddleston	Stafford
Burdick	Humphrey	Stennis
Byrd, Harry F., Jr.	Inouye	Stevens
Byrd, Robert C.	Jackson	Symington
Cannon	Johnston	Taft
Case	Long	Talmadge
Cotton	Magnuson	Thurmond
Curtis	Mansfield	Tower
Dole	McClellan	Tunney
Domenici	McClure	Williams
	McGee	Young

NOT VOTING—15

Bennett	Fong	Mathias
Bible	Fulbright	Metzenbaum
Brooke	Gravel	Nelson
Chiles	Hartke	Roth
Ervin	Kennedy	Scott, Hugh

So Mr. CLARK's amendment (No. 1191) was rejected.

Mr. CLARK obtained the floor.

Mr. CLARK. Mr. President, I yield to the Senator from Hawaii (Mr. INOUYE).

Mr. INOUYE. Mr. President, I send to the desk an amendment, and ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment offered by Mr. INOUYE is as follows:

On page 4, line 12, after "under" insert "the preceding sections of".

On page 4, after line 13, insert the following:

SEC. 7. The Court of Claims shall have jurisdiction to render judgment upon any claim for losses sustained by a domestic grower or canner of seasonal fruits or vegetables, or of fruit juices, fruit nectars, or fruit drinks prepared from such seasonal fruits (all of which are hereinafter referred to as "seasonal fruit or vegetable products") which were packed in hermetically sealed containers and sterilized by heat, arising from the actions relating to cyclamic acid and its salts (hereinafter referred to as "cyclamic sweeteners") taken by the United States under the Federal Food, Drug, and Cosmetic Act as amended, on October 18, 1969, and thereafter. If said court finds that in sweetening such seasonal fruit or vegetable products with a cyclamic sweetener, the claimant relied in good faith and to his detriment upon the safety of such cyclamic sweetener by reason of its inclusion on the GRAS list promulgated by the Commissioner of Food and Drugs (25 F.R. 9368; 26 F.R. 983; 21 CFR 121.101) and upon the safety of such cyclamic sweetener by reason of the Commissioner's proposed food additive regulation entitled "Food Additives, Cyclamic Acid and Its Salts, Safe Usage" prescribing the conditions under which such cyclamic sweetener could be safely used, published in the Federal Register (34 F.R. 6194) on April 5, 1969, judgment shall be rendered for the claimant. The term "losses" as used herein includes direct and indirect costs and damages, but not lost profits. Suits under this Act must be instituted within one year after enactment hereof.

Mr. INOUYE. Mr. President, if there is a case for indemnity payments to poultry and egg producers and processors, there is no less a case for indemnification of those small canners and processors who were hard hit when the Government abruptly reversed itself on the use of cyclamates. Prior to October 18, 1969, cyclamates were included on the Food and Drug Administration list of "generally regarded as safe"—GRAS—additives. This list includes such items as vitamins, salt, and pepper, and other similar and widely used items. On October 18, 1969, the Government suddenly banned the continued use of cyclamates, and as a result those canners and growers of domestic seasonal fruits or vegetables, or fruit juices, fruit nectar, and fruit drinks suffered severe, unequal, and irreparable damage.

During the decade cyclamates were carried on the GRAS list, the Government several times reaffirmed its belief in the safety of cyclamates.

In May 1965, FDA stated a review of recent studies on artificial sweeteners shows that they were safe as presently used.

In the fall of 1967, the FDA issued a public statement saying that—

> The safety of artificial sweeteners has been reviewed periodically for more than a decade, and that there was no scientific evidence available that showed that the artificial sweeteners are a hazard to the health of man and that such sweeteners are among the additives generally recognized as safe by scientists in and out of the FDA.

In April 1969, FDA published a proposal to establish cyclamates as a safe food additive and maintained cyclamates in food standards of identity, giving them the same legal status as sugar.

On July 24, 1972, the House of Representatives passed H.R. 13366 to provide for the payment of loss incurred by domestic growers, manufacturers, packers, and distributors as a result of the Government action barring the use of cyclamates in food after extensive inventories of foods containing such substances had been prepared or packed in good-faith reliance of the confirmed official listing of cyclamates as generally recognized as safe for use in foods under the Federal Food, Drug, and Cosmetic Act.

On April 12, 1973, I cosponsored, in conjunction with Senators CRANSTON, MAGNUSON, FONG, PACKWOOD, and ABOUREZK, Senator TUNNEY's bill S. 1563, which was referred to the Committee on the Judiciary. There has been no action on that measure by the committee to date. My amendment adds the language of that bill to S. 3231, the measure under consideration here today.

This amendment would not compensate the firms for legal fees, lost profits, lost opportunities due to drain of working capital, and necessary cutbacks on production. It would merely permit them to pursue their case in the Court of Claims and if the court decides in their favor, they will recover only direct and indirect losses. Under the provisions of this amendment no claimant can fully recover for all losses.

Any claim under this amendment will be subject to strict scrutiny in adversary proceedings before the Court of Claims. The burden of proof will be on the claimant who must prove to the court's satisfaction that he relied on good faith on FDA's listing of cyclamates as generally regarded as safe and later upon the published proposal to establish cyclamates as a safe additive to foods.

This amendment simply assures fair and full hearings for the canners and growers who suffered such loss before the Court of Claims. Because of the time of the ban of cyclamates—shortly after the end of the growing and canning season—the resultant loss and maximum possible recovery is estimated at between $100 and $120 million. Not all packers or canners suffered equally. Some were packing the majority of their production output with cyclamates as the artificial sweetener. Others used little if any in their pack.

Mr. President, realizing that this amendment is not germane to the bill pending before us, I will withdraw the amendment. However, I would hope that the chairman of the Committee on the Judiciary, the sponsor of the measure pending before us, can give some assurance that this amendment, which is now pending in his committee, will be given some consideration.

Mr. EASTLAND. It will be. We will give full consideration to it.

Mr. INOUYE. I thank the Senator. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 1193

Mr. CLARK. Mr. President, I call up my amendment No. 1193 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk proceeded to read the amendment.

Mr. CLARK. Mr. President, I ask

unanimous consent that the further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

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

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

On page 3, line 6, after "products," insert "or who knew, or should have known had he exercised the prudence of a reasonable man, that the poultry, eggs, or poultry or egg products were contaminated,".

Mr. CLARK. Mr. President, as written, the bill prohibits payments to anyone who suffered a loss due to a willful failure to follow the law concerning the use of chemicals.

This amendment would prohibit payments as well to those who failed to exercise normal caution to insure that their products were not contaminated. Surely, the Congress should not be in a position of indemnifying individuals and companies that were negligent. Nor should the Congress encourage negligence. But without this amendment, that might well be the case.

The bill now prohibits payments to those who knew the feed they were using was contaminated. However, it would still permit payment to those who did not exercise normal caution to be certain that no dieldrin or other contaminating chemical was present.

In its current form, the bill provides a disincentive to check for chemicals. It says that if one checks for chemicals and finds them he cannot use the feed. However, if he does not check for chemicals and uses contaminated feed, he can then be indemnified for his contaminated chickens.

The principle of equity, as well as the incentive for responsible, self-policing behavior, argue in favor of this amendment.

Mr. President, the Senate seems to have spoken very clearly on S. 3231 and the proposed amendments. Therefore, I ask unanimous consent that the previous order for the yeas and nays be rescinded, and that we have a voice vote on the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the order for the yeas and nays is rescinded.

Mr. EASTLAND. Mr. President, this amendment will accomplish nothing but to confuse the administration of the bill by the Department of Agriculture. Of course, if a man knew that his feed was contaminated, he could not collect anything under the bill. Nobody in the entire industry sends every sample from every car to the laboratory to be tested. He could not do business on such a basis.

This is a bad amendment. I hope the Senate will reject it.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

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

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

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HART. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk proceeded to read the amendment.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I shall make a brief explanation.

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

The amendment is as follows:

Redesignate sections 4 through 6 as sections 5 through 7 and insert after section 3 a new section 4 as follows:

SEC. 4. (a) The Secretary of Agriculture shall conduct a thorough investigation into the circumstances resulting in the economic loss for which indemnity payments are authorized to be made under this Act and shall report the results of such investigation to the Congress within one year after the date of enactment of this Act. The Secretary shall indicate in such report what actions has been taken on behalf of the United States by him or the Attorney General of the United States to collect damages by means of the prosecution of subrogated claims against parties who may be liable for the loss sustained by poultry and egg producers and processors described in the first section of this Act.

(b) The Comptroller General of the United States shall conduct an audit of the indemnity program provided for in this Act one year after the date of enactment of this Act and shall submit to the Congress the results of such audit together with such comments and recommendations as he deems appropriate.

Mr. HART. Mr. President, it will be noted that the amendment is offered on behalf of a number of other Senators. I believe that the able manager of the bill (Mr. EASTLAND), whom we have consulted with respect to its development, may find it a worthwhile offering.

The bill as reported contains a provision for a subrogation of claims that requires the recipient of an indemnity to assign to the Secretary of Agriculture his claims for damages against those who are responsible, if it is possible to identify them, for the contamination.

The track record of the Department of Agriculture in pursuing recovery from the culprit, even in earlier instances where subrogation was provided for, is not impressive.

This amendment seeks to insure that the Secretary shall proceed to recover damages if fault is found. He is also required to report back to us within a period of 12 months a description of the efforts he has made to obtain recovery. Additionally, the amendment requires the Comptroller General to audit the indemnity program and to report back to us.

All who have joined in the amendment feel strongly that if indemnity is to be paid, the Department on behalf of the taxpayers should seek to identify the individual or individuals who caused the loss.

Having found one, the Department must make a good faith effort to identify him and then proceed to effect a recovery for the taxpayer. I think the bill is subject to very serious challenge without the amendment, but I think there are many of us who would support the bill with the amendment included.

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

Mr. HART. I am glad to yield.

Mr. DOLE. Mr. President, I support the amendment of the Senator from Michigan. In fact, I raised substantially the same question in committee. It was a point that I think bothered some of us in committee. A good faith effort should be made to effect recovery, and this amendment would take care of that.

Mr. HART. The Senator from Kansas is a cosponsor, as are many other Senators.

Mr. EASTLAND. Mr. President, of course, the Senators are exactly correct. This is a good amendment. We are willing to accept it.

I am prepared to vote.

The PRESIDING OFFICER. Do the Senators yield back their time?

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

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

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CLARK. Mr. President, how much time remains on the bill?

The PRESIDING OFFICER. No time remains on the bill. Are there further amendments?

The question is on agreeing to the committee amendment, as amended.

Mr. CLARK. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. CLARK. There was an hour on the bill, to be equally divided. Has that time all expired?

The PRESIDING OFFICER. That time has expired.

Mr. CLARK. I ask for the yeas and nays on passage.

Mr. MANSFIELD. Mr. President, because of the difficulties in arriving at a time allocation, how much time would the distinguished Senator like to have?

Mr. CLARK. One minute.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Iowa be given 2 minutes.

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

Mr. MANSFIELD. And I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. CLARK. Mr. President, I urge that the Senate defeat this measure. What we are doing here today is establishing a precedent of fully reimbursing businesses which suffer financial losses regardless of how big they may be, regardless of their

need, and regardless of who is responsible for the losses. It seems to me that this is a very, very dangerous precedent.

We have provided, through the years, as the Senator from Vermont has stated, for people who suffer from natural disaster. But we have done that almost without exception through low-interest loans.

We have seen that in the case of the dairy indemnity bill and the bee indemnity bill, we made exceptions, but those were very careful exceptions, particularly with regard to the dairy indemnity, and we spent only $5.1 million in a decade in that bill.

We are asked today to provide $8 million to $10 million, without any concept in regard to who will receive that money in terms of amounts. I have asked repeatedly whether we will have assurances that five companies will not receive virtually all of the money, and the question has not been answered.

For those reasons, Mr. President, I urge the defeat of the bill.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

Mr. EASTLAND. Mr. President, I ask unanimous consent to proceed for 1 minute.

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

Mr. EASTLAND. Mr. President, this is a Government-regulated chemical. Its use was authorized by the U.S. Government. These chickens were contaminated and they were ordered killed by the U.S. Government.

My friend from Iowa tries to draw a distinction between this measure and the milk programs, because his State benefited there.

This bill is in line with every single program the U.S. Government has. If we are going to defeat it, then the next thing will be a fight in the farm bill, not by me, but against these programs for the dairy industry and others in the farm bill.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 3231) was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER (Mr. HELMS). The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from Florida (Mr. CHILES), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. METZENBAUM) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG) is necessarily absent.

I also announce that the Senator from Utah (Mr. BENNETT), the Senator from Maryland (Mr. MATHIAS), the Senator from Delaware (Mr. ROTH), and the Senator from Pennsylvania (Mr. SCOTT) are absent on official business.

The result was announced—yeas 55, nays 31, as follows:

[No. 149 Leg.]

YEAS—55

Abourezk	Eastland	McGovern
Aiken	Fannin	McIntyre
Allen	Goldwater	Mondale
Baker	Gurney	Montoya
Bartlett	Hansen	Moss
Bayh	Hart	Nunn
Bellmon	Hatfield	Pearson
Bentsen	Helms	Randolph
Brock	Hollings	Scott, William L.
Burdick	Huddleston	Sparkman
Byrd, Robert C.	Humphrey	Stennis
Cannon	Inouye	Symington
Case	Jackson	Talmadge
Church	Johnston	Thurmond
Cranston	Long	Tunney
Curtis	Magnuson	Williams
Dole	Mansfield	Young
Domenici	McClellan	
Dominick	McClure	

NAYS—31

Beall	Haskell	Percy
Biden	Hathaway	Proxmire
Brooke	Hruska	Ribicoff
Buckley	Hughes	Schweiker
Byrd, Harry F., Jr.	Javits	Stafford
Clark	McGee	Stevens
Cook	Metcalf	Stevenson
Cotton	Muskie	Taft
Eagleton	Packwood	Tower
Griffin	Pastore	Weicker
	Pell	

NOT VOTING—14

Bennett	Fulbright	Metzenbaum
Bible	Gravel	Nelson
Chiles	Hartke	Roth
Ervin	Kennedy	Scott, Hugh
Fong	Mathias	

So the bill, S. 3231, was passed, as follows:

S. 3231

An act to provide compensation to poultry and egg producers, growers, and processors and their employees

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is directed to pay compensation for poultry, eggs, and poultry and egg products, including the costs of disposal of such items, at a fair value, to poultry and egg producers, growers, and processors who have been specifically advised, under the authority of the United States, after January 1, 1974, that their poultry, eggs, or poultry or egg products contained residues of chemicals registered and approved for use by the Federal Government at the time of such use, except that no compensation shall be paid to any producer, grower, or processor who suffered loss as a result of his willful failure to follow provisions of law or procedures prescribed by the Federal Government in connection with the use of the chemicals or feed or other products containing the chemicals or in connection with the disposition of the contaminated poultry, eggs, or poultry or egg products, and no compensation shall be paid to any producer, grower, or processor to cover that portion of a loss for which he has been compensated by a third party.

SEC. 2. The Secretary of Agriculture is also directed to compensate employees of poultry and egg producers, growers, and processors for any lost wages as a result of the condition which qualifies the producer, grower, or processor for compensation under section 1 of this Act. In determining such compensation, the Secretary shall take into account any amount received by an employee as wages, earnings, and other benefits. The compensation to such employee shall continue only so long as the poultry or egg producer, grower, or processor is unable to resume normal operations because of the condition which qualifies the producer, grower, or processor for compensation under section 1 of this Act.

SEC. 3. The acceptance of any compensation under this Act shall constitute an assignment to the United States of any claim which the person accepting such compensation may have against any third party, to the extent—

(a) such claim arises from the existence of the residue of chemicals referred to in section 1 of this Act; and

(b) the amount recoverable by the United States does not exceed the amount of the compensation paid by the United States.

SEC. 4. (a) The Secretary of Agriculture shall conduct a thorough investigation into the circumstances resulting in the economic loss for which indemnity payments are authorized to be made under this Act and shall report the results of such investigation to the Congress within one year after the date of enactment of this Act. The Secretary shall indicate in such report what actions has been taken on behalf of the United States by him or the Attorney General of the United States to collect damages by means of the prosecution of subrogated claims against parties who may be liable for the loss sustained by poultry and egg producers and processors described in the first section of this Act.

(b) The Comptroller General of the United States shall conduct an audit of the indemnity program provided for in this Act one year after the date of enactment of this Act and shall submit to the Congress the results of such audit together with such comments and recommendations as he deems appropriate

SEC. 5. The Secretary is authorized to issue such regulations as he deems necessary to carry out the purposes of this Act.

SEC. 6. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purpose of this Act.

SEC. 7. The authority granted under this Act shall expire on December 31, 1974.

The title was amended, so as to read: "A bill to provide compensation to poultry and egg producers, growers, and processors and their employees."

Mr. STENNIS. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Several Senators moved to lay that motion on the table.

The motion to lay on the table was agreed to.

LEAVE OF ABSENCE

Mr. GOLDWATER. Mr. President, I ask unanimous consent, in conjunction with my duties as a member of the board of visitors to the U.S. Military Academy at West Point, that I may be excused from attendance on the Senate tomorrow.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2770) to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services.

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

The PRESIDING OFFICER (Mr. HELMS). Under the previous order, the Senate will now resume consideration of the unfinished business (S. 354), which the clerk will report.

The legislative clerk read as follows:

S. 354, to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

The Senate resumed consideration of the bill.

Mr. BAKER. Mr. President, I have been involved in the Senate Commerce Committee's consideration of no-fault insurance programs for over 2 years. As a proponent of the no-fault concept, which is now evolving at the State level in programs endorsed by the proponents of S. 354 as "genuine no-fault programs," I am disappointed that there has been little study of existing State programs and that the Commerce Committee legislation, while it has responded to some aspects of the conflict between the national standards under consideration and these State programs, remains substantially and fundamentally at variance with all of these programs wtih the exception of the Michigan program.

There is a need, I believe, for Federal standards legislation specifying a level of first party benefits and requiring coordination of tort claims for noneconomic loss, but I feel that these Federal standards should truly identify a basic program of no-fault insurance and should not preclude the States from exploring the veritable forest of issues involved in the designing of no-fault insurance programs. Too much is unknown—statistics and experience with no-fault are as yet sketchy and sometimes contradictory—and the needs of the States vary from region to region.

At the appropriate time in the debate on S. 354, I will call up my amendment No. 1137, as modified, which proposes to bring the standards of the bill into line with a genuine Federal minimum standards approach.

The subject of automobile accident reparations is a very complex matter. Many of the options in the design of no-fault programs have ramifications far beyond their direct purpose and the development of a final, no-fault program thus involves many balancing decisions. It is a difficult process requiring pragmatic judgment. Unfortunately, many of the complexities of the no-fault issue have been glossed over and much of the debate directed toward devising Federal minimum standards legislation has been clouded by massive sales campaigns on both sides of the issue. Large national labor organizations and a portion of the insurance industry see no-fault insurance as an opportunity to increase medical and disability insurance activities. Trial lawyers, who for years have been remiss in their responsibility to reform the tort reparations system, now rally to keep that system still unchanged.

I am convinced by the record of performance of the tort system in providing compensation for injuries caused in automobile accidents, as evidenced both in the DOT automobile insurance and compensation study and in testimony before the Commerce Committee, that it is past time for a critical reassessment of the present system. It is apparent that the fault concept is often a too cumbersome and costly procedure for the payment of claims arising out of an automobile accident—especially small claims. And the limits of liability insurance required by the States are woefully inadequate to pay any but those same small claims.

It remains my hope that the warring factions on no-fault insurance—those who oppose the concept totally or would advocate palliative programs and those who would rush headlong to put into effect untested, unproven no-fault schemes based upon tenuous assumptions and claims efficiency—can be overcome by those advocating reasoned and rational reform.

Although their statistical arguments have not been very analytical, the proponents of the total no-fault program contained in S. 354 have asserted that modified no-fault programs will not work because the tort system does not adequately compensate the seriously injured. It is obvious to anyone aware of the problems of the present reparations system that this situation is the result primarily of state requirements for liability insurance coverage, which are woefully inadequate to compensate any but the small to moderate award. However, it is interesting to note that the no-fault approach to reparations also experiences problems in compensating serious injury.

An interesting and revealing commentary on this particular problem inherent in total no-fault insurance schemes is found in the testimony of Mr. Thomas C. Morrill, vice president of the State Farm Insurance Co.'s, in the record of the hearings of the Commerce Committee on S. 354, volume 1, page 249. Mr. Morrill, whose company supports the basic approach of S. 354, states:

State Farm's actuarial studies show that a $5000 economic loss package per person will compensate 98 percent of all injury cases in full and pay 85 percent of all economic loss. A $25,000 package per person will compensate 99.94 percent of all cases in full and pay 97 percent of all economic loss. In contrast, a $50,000 per person package with a $100 deductible will leave 45 percent of the cases with no compensation and will pay only 86 percent of the total economic loss.

The report on S. 945 calls attention to the degree of uncompensated economic loss for the seriously injured under the present system. The figures just recited underscore the options. Someone must make a choice. Benefit packages of $5000 to $25,000 that pay from the first dollar of loss cover all but a slender segment of economic loss. Extremely high benefit packages with high deductibles or waiting periods cover the rare case of exceptional injury but may leave almost half or all victims with no recovery at all—people to whom $100 is important money. The cost of covering all losses at both ends of the spectrum would run insurance rates well beyond their present levels.

It is obvious that the staunch proponents of S. 354 have made their choice, but so have several of the States and the decisions unfortunately are not compatible.

It is my contention that the State programs already in existence will both provide valuable experience as to the ability of no-fault insurance to respond to different categories of claims and will provide valuable insight into the desires of the people with regard to what elements of loss should be covered under first party insurance.

The Institute for the Future in a report on no-fault insurance conducted under a grant from the National Science Foundation stated in analysis of two State programs presently in effect in New York and Connecticut:

Although each of these plans has its unique characteristics, they appear to be trying to bridge the philosophical gap between a total no-fault plan and the Massachusetts plan. However, what they are really doing is asking people to decide what other compensation should be included in the equitable resolution of automobile accidents.

If the proponents of Federal minimum standards no-fault legislation leave the States sufficient flexibility to test these programs, in a reasonably short time we will have the answers to these questions.

While I support no-fault insurance reform, I am afraid that its proponents have inflated its potential to mythical proportions. It must be remembered that no-fault insurance is basically nothing more than first party insurance providing medical and disability coverage. Such insurance has been available for many years.

No-fault motor vehicle insurance programs simply tie such insurance to injury caused by a motor vehicle accident and then—to coordinate existing protections and to reduce costs—limit access to the tort reparations system.

Modification of the existing reparations system involves some sizable risks. If Congress adopts an unworkable program of no-fault insurance, the damage and disruption will be great and will be extremely widespread. And the people who will be worst hurt will be the consumer and the injured claimant.

No-fault insurance is not a panacea. It will provide, I believe, a tremendous improvement in the efficiency of motor vehicle accident reparations. But in the development of Federal minimum standards, Congress must be aware also of the many unanswered questions—questions which, with a little patience, will be answered.

We can make tremendous progress by enacting a standards program which

stays within the range of our knowledge, pushing ahead of the beginnings of no-fault insurance reform but not arrogantly pretending to surpass the expertise of our partners in the States who have already brought this reform a great distance.

Unless the standards of S. 354 are brought into line with genuine State no-fault reform programs, I will urge my colleagues to reject it. If we endorse a program which would abrogate these programs, it will be a defeat—not a victory—for "no-fault."

Mr. MANSFIELD. Mr. President, is there a time limitation on the pending business?

The PRESIDING OFFICER. There is no time limitation.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, without losing my right to the floor.

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.

REVISION OF SPECIAL PAY BONUS STRUCTURE TO MEMBERS OF THE ARMED FORCES—CONFERENCE REPORT

Mr. STENNIS. Mr. President, I submit a report of the committee of conference on S. 2771, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HELMS). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two House on the amendments of the House to the bill (S. 2771) to amend chapter 5 of title 37, United States Code, to revise the special pay bonus structure relating to members of the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of April 10, 1974, at p. 10623.)

Mr. STENNIS. Mr. President, S. 2771 is a bill which revises the existing reenlistment bonus program for the Department of Defense and expands the enlistment bonus authority provided for in current law. There were four substantive differences in the House and Senate versions of S. 2771. I will describe briefly what the differences are. More details can be obtained from the joint explanatory statement of the Committee of Conference which has been filed with the conference report.

DIFFERENCE 1—MAXIMUM REENLISTMENT BONUS

The Senate bill provided for a maximum reenlistment bonus of $12,000 as opposed to $15,000 in the House bill. Present law provides bonus authority of up to $15,000 for personnel in the Navy nuclear power field, and up to $10,000 for reenlistments in other skill areas. The Department of Defense testified that its present plans call for using a $15,000 bonus only for personnel in nuclear power fields when present authority for that amount expires on June 30, 1975. The Senate conferees agreed to a maximum of $15,000 in the House bill, with the understanding that this maximum would be limited to the nuclear field only.

The average reenlistment bonus under the new authority, for other than those in the nuclear field, is estimated to be $5,300.

DIFFERENCE 2—MULTIPLE BONUS RESTRICTION

The House bill contained a provision that a member's total reenlistment bonus for two or more reenlistments could not exceed the amount to which he would have been entitled had he initially reenlisted for a total period equal to the two or more reenlistments. The intent of the House amendment was to preclude service members from receiving more money for several short periods of reenlistments than for a single maximum reenlistment. The Senate conferees understood the intent of the House amendment, but they pointed out that it would hamper the Department of Defense's administration of the reenlistment bonus program by limiting the amount that could be paid for future reenlistments of shorter periods. The Department expressed serious concern that this amendment would limit its flexibility in this area. The House conferees receded on their amendment.

DIFFERENCE 3—EXPIRATION DATE FOR REENLISTMENT BONUS

The Senate bill provided that the new reenlistment bonus program in the bill would become part of permanent law just as the current reenlistment bonus authority is part of permanent law. The House bill provided an expiration data of June 30, 1977, for the reenlistment bonus authority. The House conferees stated that it would be advisable to have this authority reviewed by the Congress after a reasonable period of operation. The Senate conferees agreed that such a review would be wise, and they agreed to an expiration date of June 30, 1977, for the reenlistment bonus.

DIFFERENCE 4—ADMISSION OF WOMEN TO SERVICE ACADEMIES

The bill as passed the Senate contained a Senate floor amendment which would have authorized the attendance of women at the service academies. The House bill contained no such provision. The Senate conferees strenuously maintained their position on this amendment and agreed only to recede after the leadership of the House Armed Services Committee indicated its intention to hold hearings on this matter. The House conferees pointed out that an amendment of this kind would have a number of possible implications, such as new construction at the academies, et cetera, which should be thoroughly investigated through hearings. The Senate conferees reluctantly receded on this amendment, and I assure you they will follow with great interest any House action on this matter.

ENLISTMENT BONUS

Both the House and Senate bills provided a bonus of up to $3,000 for an enlistment of at least 4 years in any critical skill area in any service. This program will cost about $75 million in fiscal year 1975 and should be of significant help in making the all-volunteer force a success. I would note here that both House and Senate bills limit payment of the enlistment bonus to those in the top three mental categories on the Armed Forces qualification test.

Mr. President, I am pleased with the action of the House and Senate conferees on S. 2771, and I urge prompt adoption of the conference report on this bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

REVISION OF PAY STRUCTURE FOR MEDICAL OFFICERS OF THE UNIFORMED SERVICES—CONFERENCE REPORT

Mr. STENNIS. Mr. President, I submit a report of the committee of conference on S. 2770, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2770) to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of April 10, 1974, at pp. 19622–10623.)

Mr. STENNIS. Mr. President, S. 2770 is a bill which revises the special pay structure for medical officers of the uniformed services. There were four substantive differences in the House and Senate versions of S. 2770. I will describe briefly what the differences are. More details can be obtained from the joint explanatory statement of the Committee of Conference which has been filed with the conference report.

DIFFERENCE 1.—INCLUSION OF DENTISTS, OPTOMETRISTS, AND VETERINARIANS IN THE BILL

The Senate bill limited the increased monthly special pay and new bonus authority to physicians only. The House in-

cluded physicians along with dentists, optometrists, and veterinarians under both the special pay and bonus payment provisions of the bill.

The Senate conferees pointed out that the Deputy Secretary of Defense and the Assistant Secretary of Defense for Health and Environment has recently advised the Armed Services Committee that there is no need for special legislation for other than physicians.

In addition, these officials indicated that the possible need for additional compensation for health professionals, other than physicians, would be kept under close review and appropriate recommendations would be made to the Congress if found essential.

The Senate conferees were adamant in their position in limiting the bill to physicians and the House conferees receded.

DIFFERENCE 2.—BONUS ELIGIBILITY FOR O-6'S—COLONEL

The Senate bill limited the new bonuses in the bill to officers in the pay grade of O-5—lieutenant colonel—and below and provided that those medical officers in pay grades of O-6—colonel—and above would remain under their present pay system.

The House bill included O-6's under the new bonus system.

The House conferees pointed out that testimony from the Surgeon General indicated that individuals in the O-6 grade are at a critical point in service where they are in important positions, such as department head and teaching positions, among many others, and failure to include these officers under the bonus provisions of the bill would have an adverse effect on their retention. The Senate conferees agreed that O-6's form an important part of a viable Medical Corps and, therefore, agreed to the House's inclusion of O-6's in the bill.

DIFFERENCE 3.—MAXIMUM BONUS AMOUNT

The Senate bill limited the maximum bonus for physicians to $10,000 per year, for each year's extension of active duty, compared to $15,000 per year under the House bill. The Department of Defense had requested $15,000 in bonus authority and the House conferees were adamant that something more than $10,000 in the Senate bill was necessary to retain sufficient numbers of physicians in the services.

The House conferees noted that even with a $15,000 bonus there could be between $1,000 to $5,000 difference between a physician's military and civilian income.

The Senate conferees noted the significant fringe benefits available to physicians in the uniformed services, such as a generous noncontributory retirement system, post exchange and commissary privileges, free medical care, and the like.

After considerable discussion the conferees agreed to a maximum bonus of $13,500 and a requirement that the Department of Defense report in detail on a fiscal-year basis on the operation and progress of the bonus program.

DIFFERENCE 4.—INCLUSION—OF THE PUBLIC HEALTH SERVICE OFFICERS

The Senate bill contained no provision for payment of bonuses to health professionals of the Public Health Service, whereas the House bill authorized bonuses for Public Health Service physicians, dentists, veterinarians, and optometrists. The House conferees noted that the Department of Health, Education, and Welfare appeared before the House Armed Services Committee and testified as to the need for bonus authority for the Public Health Service and that this position was supported by the administration. The conferees agreed that only physicians of the Public Health Service would be included under the bonus provisions of the bill.

CLARIFYING LANGUAGE ON RESTRICTION OF BONUS PAYMENT

Mr. President, the conferees agreed on clarifying language in the bill concerning the restriction of bonus payments. The House bill contained language which had the effect of excluding certain officers from bonus eligibility who were serving their initial active duty obligation or who were undergoing intern or residency training. The Senate bill contained no such specific prohibition on bonus payments. The Senate conferees noted that many military physicians do not enter subspecialty residency training until later in their careers and that volunteers in such subspecialty residency programs would be seriously limited if physicians were not eligible for the bonus during that period. The conferees, therefore, agreed that exclusion from the bonus would be limited to those undergoing initial residency training.

In addition, the conferees agreed that exclusion from new bonuses for physicians would apply only up to the first 4 years of initial obligated service. The conferees felt that it might be inequitable to prohibit a physician from receiving a bonus for a long initial service obligation period. For example, under various procurement programs a physician may incur an initial obligation for as long as 9 years. Under the conference report language a physician would be ineligible for a bonus only for up to the first 4 years of initial obligated service and thereafter be eligible for a bonus at a reduced rate for the additional years of obligated service.

Mr. President, I believe the conference report on this important bill to be a reasonable and fair compromise, and I urge its prompt adoption.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

THE DISASTER RELIEF ACT AMENDMENTS OF 1974

Mr. BURDICK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3062.

The PRESIDING OFFICER (Mr. HELMS) laid before the Senate the amendment of the House of Representatives to the bill (S. 3062) entitled "Disaster Relief Act Amendments of 1974", which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Disaster Relief Act Amendments of 1974".

SEC. 2. Title II of the Disaster Relief Act of 1970 is amended by adding at the end thereof the following new section:

"INDIVIDUAL AND FAMILY GRANT PROGRAMS

"SEC. 256. (a) The President is authorized to make a grant to a State for the purpose of such State making grants to meet extraordinary disaster-related expenses or needs of individuals or families adversely affected by a major disaster in those cases where assistance under other provisions of this Act, or from other means, is insufficient to allow such individuals or families to meet such expenses or needs. The Governor of a State shall administer the grant program authorized by this section.

"(b) The Federal share of a grant to an individual or a family under this section shall be equal to 75 per centum of the actual cost of meeting such an extraordinary expense or need and shall be made only on condition that the remaining 25 per centum of such cost is paid to such individual or family from funds made available by a State or a political subdivision of a State. Where a State or a political subdivision is unable immediately to pay its share, the President is authorized to advance to such State such 25 per centum share, and any such advance is to be repaid to the United States when such State or political subdivision is able to do so. No individual and no family shall receive any grant or grants under this section aggregating more than $5,000 with respect to any one major disaster.

"(c) The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and the administration of grants made under this section.

"(d) A State may expend not to exceed 3 per centum of any grant made by the President to it under subsection (a) of this section for expenses of administering grants to individuals and families under this section.

"(e) This section shall take effect as of March 31, 1974."

SEC. 3. Section 102(1) of the Disaster Relief Act of 1970 is amended by inserting immediately after "earthquake," the following: "mud slide,".

Mr. BURDICK. Mr. President, I move that the Senate disagree to the amendment of the House to the Senate bill (S. 3062) entitled the "Disaster Relief Act Amendments of 1974" and agree to the request of the House for a conference on the disagreeing vote of the two Houses 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. BURDICK, Mr. CLARK, Mr. BIDEN, Mr. RANDOLPH, Mr. DOMENICI, Mr. BUCKLEY, and Mr. BAKER conferees on the part of the Senate.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

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

ORDER FOR EXECUTIVE SESSION TOMORROW

Mr. MANSFIELD. Mr. President, it is my understanding that up to this time there is one special order for tomorrow. I ask unanimous consent that beginning at 12:45 p.m., the Senate go into executive session to consider nominations on the calendar.

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

Mr. MANSFIELD. I ask unanimous consent that once the Senate goes into executive session on the nominations, the distinguished Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed one-half hour.

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

Mr. MANSFIELD. I ask unanimous consent that at the conclusion of that time, there be a time limitation of one-half hour each on two general nominations, the time to be equally divided between the distinguished Senator from Iowa (Mr. HUGHES) and the distinguished chairman of the committee, the Senator from Mississippi.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR YEAS AND NAYS ON NOMINATIONS OF BRIG. GEN. CHARLES A. GABRIEL AND MAJ. GEN. ALTON D. SLAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in executive session, that it now be in order to order the yeas and nays on two nominations, the nomination of Brig. Gen. Charles A. Gabriel and the nomination of Maj. Gen. Alton D. Slay.

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

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on both nominations.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

The Senate continued with the consideration of the bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

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

Mr. MOSS. I yield.

Mr. BAKER. Mr. President, I ask unanimous consent that Mr. Richard Harrid may be permitted the privilege of the floor during the consideration of S. 354.

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

Mr. MOSS. Mr. President, I ask unanimous consent that Mr. Mike Purchuk be permitted the privilege of the floor during the consideration of S. 354.

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

Mr. MOSS. Mr. President, I informed my colleagues of how the American Trial Lawyers Association is employing electronic techniques to disguise a highly organized lobbying effort against the national no-fault insurance legislation as a groundswell of opinion from ordinary citizens. I have now obtained documents which demonstrate the methodology of that deception and how the trial lawyers are using Western Union to lobby their own local associations and members.

Apparently the idea originated with the Los Angeles Trial Lawyers Association which on March 30 sent mailgrams to over 2,900-member attorneys bearing the following message:

Urgent act instantly. Minutes count. Just learned federal no-fault will be voted in U.S. Senate Thursday with marginal passage likely, repeat likely. In its area this will end tort system, jury system, adversary system, reparations system and state's right and reduce injured citizen to little-brother numbers with massive life-control in Washington, D.C.

Please, please this instant telephone Western Union toll free, 800-648-4100. Ask for telebook no-fault. Give operator only names and addresses of your associates, secretaries, clients, relatives, friends in whose names you want to protest federal no-fault. All the rest is automatic.

For each name you give 10 protest messages will be delivered tomorrow to key Senators and Government leaders holding crucial vote. Or you may dictate your own message to Western Union operator. Your phone will be billed $2.00 per each message.

Urgent act instantly minutes count.

Within 2 days, as a result of this plea, 4,300 mailgrams had been sent to Senators from Western Union's Reno Central Telephone Bureau alone.

The success of this effort apparently suggested to the Trial Lawyers Association the idea of using Western Union's sales force to stimulate its own State and local associations and other organizations to send similar messages to Senators. As a result a complete roster of the Trial Lawyer Association, nationwide, was provided to Western Union's area vice presidents for distribution to the sales staff. In addition, the area vice presidents were informed that the names and telephone numbers of their district sales managers had been provided to the president of the Los Angeles Trial Lawyers Association and that he might be calling them direct.

The same day, April 1, a telegram was sent from Western Union's national sales office to all area managers suggesting that their sales force contact Trial Lawyer Association, mutual insurance agents, associations of insurance adjusters and State, county, and city bar associations, recounting the Los Angeles experience and trying to sell them a similar program or "book."

The telegram also contained instructions to the central telephone bureaus—CTB's—which read as follows:

Below we are transmitting 10 names of Senators and President to whom you will send messages and also we are sending 30 messages. You at the CTB are to take the calling names and phone numbers and at random (get good mixture) pick a message and send it to the 10 names provided. The above text tells the sendor that they will be billed on their phone so they will receive a bill of 20 dollars for each name they give you on phone.

Example one:

I call CTB give my name and phone number. You pick a message and sign it with my name and send it to the nine senators and the President and bill me 20 dollars.

Example two:

I call CTB give my name and phone number. You pick a message and sign it with my name and send it to the nine Senators and the President. Then I also say to send for my wife Carole, my brother Jerry. You pick one message at random for each, my wife and brother and send that to the Senators and President and bill me 60 dollars.

Following these instructions is a list of the nine Senators to receive mailgrams and a list of 30 anti-no-fault messages which are to be rotated. The telegram concludes with an instruction to "contact directly the president of the local Trial Lawyers Association immediately," and to "keep in touch with the CTB's directly and report your success as the numbers mount."

Mr. President, I believe that these documents, which I ask be appended to my statement, prove quite conclusively that the Trial Lawyers Association, realizing the dependence of Western Union salesmen on commissions, has in fact made that sales force the unwitting instrument by which to lobby its own State and local associations and other organizations to protest against enactment of the national no-fault legislation.

Mr. President, I ask unanimous consent that the telegrams from which I have quoted and the list of names be printed in the RECORD at this point.

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

TELEGRAM

Reference the Trial Lawyers Asso Book.

Following is the complete roster of the Association's nationwide. It was current as of 1973. Suggest your repr. contact immediately. Text previously furnished you by Jack Cochran. Your CTB has all data and can reconfirm with Bob Griffth in Reno. FYI name of your DSM and phone number has been provided Hill Sayele president of the Los Angeles chapter who may be calling him direct. FYI the Losa Com book was in excess of 2900 messages as of 2 p.m. today 4300 mailgrams were filed through Reno CTB and 519 confirmation copies. The main point is that the calls to the CTB be directed to telebook no fault and name of State party calling from. Calls should be made tomorrow as bill is scheduled for vote on Thursday.

TELEGRAM

AREA SALES MANAGER,
Washington, D.C.

Urgent—for immediate dissemination.

The following has been received from Larry Noelker in Los Angeles and should be acted upon immediately.

It is suggested that your sales force contact trial lawyers assns.—mutual ins. agents, assoc. of ins. adjusters and state, county and city bar associations regarding the following.

2900 mailgrams were sent out for receipt today by Los Angeles attys. who in turn have already sent over 500 mailgrams in response as of 10:15 a.m. today.

Repeat—this is urgent for immediate attention:

The following message was transmitted Saturday 3/30/74 to over 2900 members of the Trial Lawyers Association from Los Angeles and Orange counties.

Urgent act instantly minutes count. Just learned Federal no-fault will be voted in U.S. Senate Thursday with marginal passage likely, repeat likely.

In its area this will end tort system, jury system, adversary system, reparations system and State's rights and reduce injured citizens to little-brother numbers with massive life-control in Washington, D.C.

Please, please this instant telephone Western Union toll free 800-648-4100. Ask for Telebook No-Fault. Give operator only names and addresses of your associates, secretaries, clients, relatives, friends in whose names you wish to protest Federal no-fault, all the rest is automatic.

For each name you give 10 protest messages will be delivered tomorrow to key Senators and Government leaders holding crucial vote. Or you may dictate your own message to Western Union operator. Your phone will be billed $2.00 per each message.

Urgent, act instantly, minutes count.

HILL SAYBLE, *President*,
L-O-T-A.
EARL FRANK, *President*,
O-C-T-L-A.
WYLIE AITKEN,
Coordinator, A.T.L.A.

CTB INSTRUCTIONS

Below we are transmitting 10 names of Senators and President to whom you will send messages and also we are sending 30 messages. You at the CTB are to take the calling names and phone numbers and at random (get good mixture) pick a message and send it to the 10 names provided. The above text tells the seller that they will be billed on their phone so they will receive a bill of 20 dollars for each name they give you on phone.

Example one: I call CTB give my name and phone number. You pick a message and sign it with my name and send it to the nine Senators and the President and bill me 20 dollars.

Example two: I call CTB give my name and phone number. You pick a message and sign it with my name and send it to the nine Senators and the President. Then I also say to send for my wife Carole, my brother Jerry. You pick one message at random for each my wife and brother and send that to the Senators and President and bill me 60 dollars.

Here are the Senators and President names and addresses, people to whom the no-fault messages should be sent. Please rotate messages.

Senator Alan Cranston, New Senate Office Building, Washington, D.C. 20515.

Senator John Tunney, New Senate Office Building, Washington, D.C. 20515.

Senator Barry Goldwater, New Senate Office Building, Washington, D.C. 20515.

Senator Walter Mondale, New Senate Office Building, Washington, D.C. 20515.

Senator Hugh Scott, New Senate Office Building, Washington, D.C. 20515.

Senator Mike Mansfield, New Senate Office Building, Washington, D.C. 20515.

Senator Charles Percy, New Senate Office Building, Washington, D.C. 20515.

Senator Henry Jackson, New Senate Office Building, Washington, D.C. 20515.

Senator Howard Baker, New Senate Office Building, Washington, D.C. 20515.

President Richard M. Nixon, United States Capitol, Washington, D.C. 20515.

NO-FAULT MESSAGES

1. No-fault insurance is a matter which should be left to the States. I urge you to oppose S354.

2. Most no-fault plans have raised premiums, not reduced them. Please oppose S354.

3. S354 is an unconstitutional usurpation of State rights. I urge you to oppose federal no-fault.

4. S354 takes away the rights of injured traffic victims, on behalf of them please oppose S354.

5. If S354 passes, thousands of Americans will be forced to buy insurance they do not need. Please oppose it.

6. S354, Federal no-fault will not benefit the public but the insurance industry. Please oppose it.

7. Until we have had more experience with the States, it is unwise to pass a plan for Federal no-fault insurance. Please oppose S354.

8. Experience indicates that no-fault raises premiums while taking away rights. Please oppose S354.

9. On behalf of retired people, housewives and students who are forced to buy insurance they don't need. Please oppose S354 (Federal no-fault).

10. S354 represents a windfall for insurance companies, and a set back for the insurance. Please oppose Federal no-fault.

11. S354 represents compulsory insurance and discriminates against the poor. Please oppose Federal no-fault.

12. S354 takes away one's rights to recover for pain and suffering, while rewarding the wrongdoer. Please opposed Federal no-fault.

13. The State is the proper laboratory to experiment with no-fault insurance. Please oppose S354.

14. Under S354, taxpayers of the various States will be forced to spend their money to implement an unproven Federal plan. Please oppose it.

15. Innocent traffic victims are entitled to full compensation for their injuries. S354 Federal no-fault should be opposed.

16. Please oppose S354, a Federal no-fault plan backed by insurance interests.

17. S354 Federal no-fault, forces on the States a plan of insurance which will raise premiums and take away rights. Please oppose it.

18. The experience in the States casts doubt on the entire concept the no-fault insurance. Please oppose S354.

20. S354 Federal no-fault embodies a a plan which takes away rights and appears to be failing on the State level. Please oppose it.

21. 100 million Americans will lose benefits under Federal no-fault. I urge you to oppose S354.

22. Proposed Federal legislation on no-fault insurance takes away the rights of the injured. Please oppose S354.

23. S354 takes away valuable rights from the elderly and the retired. Please oppose Federal no-fault.

24. The parents of innocent traffic victims lose rights under Federal no-fault. Why? I urge you to oppose S354.

25. We do not need a national no-fault bill. The individual states are where the issue should be debated and considered. Oppose S354.

26. Loss of rights, a rise in premiums, a loss of our cherished adversary system, this is what we can expect from S354. Please oppose Federal no-fault.

27. I want to register my opposition to S354, Federal no-fault. Please oppose it.

28. The State of Massachusetts and Florida had a premium increased under so called no-fault insurance. Please oppose S354, Federal no-fault.

29. No-fault is really not fair. We need meaningful insurance reform, not an insurance hoax. I urge you to oppose S354.

30. We need meaningful insurance reform. Federal no-fault does not answer the basic ills in the system. Oppose S354.

Again, you are urged to contact directly the president of local trial lawyers assn. immediately.

The CTB's have the texts and the address tapes and are set up and ready to go.

Many thanks to Larry and the Los Angeles Area for this hot and timely application. If you have any questions, headquarters staff will be calling you directly for further explanations, or you can contact Larry directly at his OFC 213-627-4321 and this evening at home 213-330-0358.

Please keep in touch IXXX with the CTB's directly and report your success as the numbers mount.

Mr. MOSS. Mr. President, as I stated yesterday, of course I recognize the right of any person or any group to lobby for or against any piece of legislation and to contact Members of the Senate and the House. But I wish to bring to the attention of this body the tactics used and the disguises of the effort made to lobby to cover the tracks of those doing it and make it appear to come from large groups of people who are in no way involved.

The bill before us is one that has gone through a long consideration stretching over a period of years. I think the Senate is ready to proceed and I would suggest that if there are any amendments to be offered we would now be willing to consider those amendments because we would like to get to the point where we could vote on final passage, up or down, on this legislation.

Mr. ABOUREZK. Mr. President, I call up an amendment I have at the desk.

Mr. COTTON. Mr. President, will the Senator yield for a moment?

Mr. ABOUREZK. I yield.

Mr. COTTON. I will not hold up this amendment. It was my purpose to make an opening statement after the distinguished Senator from Utah and the distinguished Senator from Nebraska had finished their remarks. I would just as soon defer so that the Senator from South Dakota can proceed with his amendment.

Mr. MOSS. Very good.

Mr. President, I ask unanimous consent that the Senator from New Hampshire be recognized immediately following this amendment for his opening remarks, since I did not realize he was prepared to proceed at this time.

The PRESIDING OFFICER. Will the Senator restate the request?

Mr. MOSS. The request is as follows:

I ask unanimous consent that following disposition of the amendment now being called up by the Senator from South Dakota that the Senator from New Hampshire be recognized because he has an opening statement and he was precluded by calling up this amendment.

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

Mr. ABOUREZK. Mr. President, before the clerk states the amendment, I would not mind yielding now to the distinguished Senator from New Hampshire for his opening statement, just so this amendment would be the pending busi-

ness at the conclusion thereof. I would like to yield to the Senator at this time.

Mr. COTTON. The Senator is ready with his amendment. I would suggest that he go ahead.

Mr. ABOUREZK. I have more than one amendment.

Mr. COTTON. I might be holding up the Senator. Go ahead with the amendment.

Mr. President, I ask unanimous consent that the request of the Senator from Utah be vacated. I will wait until a later time.

The PRESIDING OFFICER. The Senator from New Hampshire requests that the previous order that he be recognized, as requested by the Senator from Utah, now be vacated. Is there objection?

Mr. MOSS. I join with the Senator from New Hampshire.

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

Mr. ABOUREZK. Mr. President, I call up my amendment designated "A," and I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 104, delete lines 24 and 25 and insert in lieu thereof the following:

"(3) An individual remains liable for injuring another individual, either intentionally or as a consequence of intending to injure himself.

On page 105, line 8, delete "in excess of $2,500."

On page 105, between lines 18 and 19 insert the following new paragraph:

"(6) A person or Government remains liable if such injury was caused or not corrected by an act or omission not connected with the maintenance of a motor vehicle."

Mr. ABOUREZK. Mr. President, the amendment I offer would make certain changes and improvements in S. 354, the National No-Fault Motor Vehicle Insurance Act by permitting lawsuits in certain cases where I believe they should be permitted and by eliminating the deductible feature which applies to recovery for noneconomic detriment—that is pain and suffering.

Some people have ridiculed the language which seems to say that a person remains liable for intentionally injuring himself. While the language does not actually say that, I have offered perfecting language to make better sense out of the provision which preserves the right to sue for persons injured by intentional acts.

In that respect the language specifically states:

(3) An individual remains liable for injuring another individual, either intentionally or as a consequence of intending to injure himself.

That would mean removal from no-fault because the person would be liable under tort recovery.

Then, on page 105, line 8 there is a $2,500 deductible feature which applies to recoveries for noneconomic detriment which I think makes no sense at all. I would remove that deductible completely.

Finally, I would add a new exception to section 206 which would permit a person to sue someone if he were injured through a negligent act which was not associated with the maintenance or use of a motor vehicle.

For example, a person by this amendment, would be able to sue the railroad whose freight car broke loose and crashed into a vehicle or he would be able to sue the contractor who failed to put up proper warning signs and thereby caused a person to be injured in an auto accident.

Mr. MOSS. Mr. President, if the Senator will yield, is this amendment printed?

Mr. ABOUREZK. No, it is not printed. I have a copy here, if the Senator would like one.

Mr. MOSS. I would appreciate receiving a copy.

Mr. President, this amendment goes to deleting lines 24 and 25 on page 104, where it talks about the liability for injuring another individual intentionally or as a consequence of an intent to injure himself; but on page 105, where it refers to "in excess of $2,500," does that apply to the same subject matter?

Mr. ABOUREZK. I think it does.

Mr. President, I ask that those amendments be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GRIFFIN. 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.

Mr. COTTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COTTON. Does the Senator have the floor?

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. COTTON. Mr. President, this whole bill is a highly complicated and technical one. Insurance commissioners of various States—including my own, incidentally—testified before the Judiciary Committee that to decrease the $2,500 mentioned in section 206(a)(5), as the Senator's amendment proposes, would increase the cost of insurance, especially in the rural States.

On the other hand, the deductibility in itself may work a certain injustice on the insured.

The point I am making is that, although there may be merit to the several parts of the amendment offered by the Senator from South Dakota, it is unprinted. We have been trying, with the assistance of both the majority and the minority staffs, to realize its impact.

I do not seek any delay, because I have discussed with the Senator from West Virginia the possibility of an agreement to dispose of the matter within a reasonable time.

However, I think that amendments that go to the somewhat technical provisions of the bill ought to be printed and lie on the table. They can be studied and taken up.

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

Mr. COTTON. I am happy to yield.

Mr. ABOUREZK. I would be very happy to have these amendments printed, provided they could be taken up tomorrow and considered, so that we may have a vote on them tomorrow.

I should like to withdraw the amendment that we are now considering, with the approval of the Senator from Utah (Mr. Moss).

Mr. MOSS. Mr. President, would the Senator from South Dakota consider a slight modification of the amendment, to perfect a few words in the last line? Where the amendment reads: "Maintenance of the vehicle," I suggest making it "maintenance and use of the motor vehicle."

Mr. ABOUREZK. That is acceptable.

Mr. MOSS. I understand the Senator has withdrawn his amendment.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the amendment be printed as modified.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed and lie on the table.

Mr. ABOUREZK. Mr. President, I have two other amendments at the desk that I ask to have printed. I shall call them up at the proper time tomorrow.

Mr. MOSS. The Chair has indicated that it takes unanimous consent to modify the amendment. Therefore, I ask unanimous consent that the words "maintenance of the vehicle" in the last line of the amendment be modified to read "maintenance or use of the motor vehicle."

The PRESIDING OFFICER. Is there objection The Chair hears none, and it is so ordered.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that my amendment which has just been withdrawn be the pending business when the Senate resumes its consideration of the bill tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MOSS. I thank the Senator from South Dakota. I think that when the amendment is printed, so that all Senators can see it, we can then proceed rather quickly with the debate.

Mr. MAGNUSON. Mr. President, I suggest to the Senator from South Dakota that his amendment is a good one. I think it better that all Senators see it in printed form. But I may say for the RECORD today that the modification is a good one and that it will improve the bill considerably.

Mr. ABOUREZK. I thank the Senator.

Mr. COTTON. Mr. President, I wish to express my opposition to the bill, S. 354, which is now pending before the Senate.

When the bill, S. 354, was considered by our Committee on Commerce, I joined with several of my colleagues in voting for the motion to order this legislation reported. I did so in order to enable its consideration by the Committee on the

Judiciary. But in so voting, I set forth in the committee report an express reservation, reserving all rights, including, if need be, the right to oppose the bill during Senate consideration, which I now am constrained to do.

While I disagree neither with the need for reform by the several States of the automobile reparation system, nor with the concept of no-fault insurance, I am concerned about the means proposed in S. 354 to obtain its objectives and their possible, if not probable, impact.

Mr. President, some of my concerns with respect to this proposed "National No-Fault Motor Vehicle Insurance Act" have been set forth in the minority views to be found in the report of the Committee on the Judiciary, accompanying S. 354.

For example, in the first instance, I share the concerns of those on the judiciary with respect to the probable constitutional issue raised by the legislation. As pointed out in those minority views, there is a question as to whether the Congress has the power to compel the States to administer a Federal law even if those States are not willing to adopt such a no-fault plan as required pursuant to the provisions of S. 354. The seven members of the Committee on the Judiciary joining in the minority views on S. 354 conclude that, with respect to this question, "it is doubtful that the Congress possesses the power to force unwilling States to take any affirmative action in administering a federally imposed no-fault plan".

Second, notwithstanding some actuarial studies to the contrary, such as the studies prepared by the firm of Milliman & Robertson, Inc., which indicate a potential cost-saving in insurance premiums among the several States, I, too, have duly noted the caveats expressed with respect to such studies. Therefore, there is a lack of certitude with respect to the findings of such studies. And, this might result in actually increasing the cost of automobile insurance for citizens of such rural States as New Hampshire with cost-saving benefits inuring only to the more densely populated urban areas of the country. Thus, I find myself sharing the concern expressed in the minority views of the Judiciary Committee report that "the measure generally operates to the detriment of rural and semi-rural populations."

Finally, I also am concerned that the no-fault insurance being proposed in S. 354, with its mandate for unlimited medical and rehabilitation coverage, coupled with Federal regulation, may jeopardize the ability of many small but financially stable casualty companies to grow and to compete effectively in the automobile insurance market. Such a result could lead inevitably to greater concentration and possible monopoly by the large insurance companies. It thus could lead to the gradual elimination of many of the small insurance companies that are not only rendering good service, but which, because their insurance is written largely in their own section and not diversified throughout the Nation, are even more efficient in dealing with those victims who have had casualties suffered in automobile accidents.

In conclusion, Mr. President, I do not feel that the seat of the Federal Government here in Washington, D.C., and its attendant bureaucracy is the sole repository of all of wisdom of this great Nation of ours. There are some matters which would best be left with the States in order that each of our several States may fashion the remedy best suited to meet the needs of its citizens. This, Mr. President, is what the Congress declared in 1945 with the McCarran-Ferguson Act, that "the continued regulation * * * by the several States of the business of insurance is in the public interest * * *," and I see no valid reason to alter that public interest concept in the manner proposed by S. 354. I therefore feel compelled to oppose this proposed "National No-Fault Motor Vehicle Insurance Act" in its present form.

Mr. President, it has been clearly pointed out already in this debate that the movement toward reformation of our insurance system not only is taking place, but has been taking place. Some of us who in the practice of the law in the past—and this Senator is one—had a good deal to do with the trial and settlement and the adjustment of automobile insurance claims and are well aware of what has been taking place.

First, may I say that in determining my attitude as a Senator on this measure, I want it to be distinctly and definitely understood that I am not representing the viewpoint of the trial lawyers of this country, who have, as their legitimate right, been rather active in opposing this legislation. As I have stated already, during my law practice I represented many insurance companies and engaged in constant jury trial work, involving automobile cases.

I am well aware that there were many faults in the system that needed correction. I am perfectly aware of the fact that insurance companies could postpone cases if the attorney for the injured party—the plaintiff who was seeking a settlement from an insurance company—was not an active or aggressive trial lawyer. It was not a difficult thing, nor an unusual thing in those days to employ dilatory tactics. It might be 1 or 2 years before the case actually got to the doors of the courtroom and before a jury adjudicated the damages suffered or alleged to have been suffered by the plaintiff. If the plaintiff were a person of limited means, it became a great hardship.

The first step that was taken to remedy this situation was to enable payment of doctor and hospital bills. Fortunately, I had no immediate worries in this regard because the practice of my insurance company was to take care of those bills to a very substantial extent. Then, when the case was finally adjudicated—and I am still talking about the old style tort system—whichever company was ultimately liable reimbursed the others under subrogation for these charges.

So it has been some time, now, since we have been up against such a severe injustice of having unfortunate people with serious and disabling injuries, requiring long hospitalization, but without funds and left at the mercy of the slow process of litigation in the courts.

I am not suggesting, Mr. President, that this cured the situation. I am merely suggesting that that was the first step. It is a step that has already been taken, to relieve the most distinct harshness involved in the old system.

In addition, there have been further steps taken. People have become more and more of the opinion that the automobile reparation system can be improved. Many States now have some form of no-fault insurance. These State no-fault laws are not all alike.

Then, there arose a potential problem that worried a great many Senators, I remember, when we were considering this matter in the last Congress. Senators were very much perturbed as to what the situation would be if a person living in a State which did not have no-fault insurance should drive his car into a no-fault State and find himself in an accident, and vice versa. What would happen? Would he, under the laws of the different States, find himself incurring personal liability which might run into very substantial sums and work a great hardship?

Well, that has been taken care of. It has been taken care of by the insurance companies themselves so that, without extra charge, riders are attached to the policies. So, living in my State of New Hampshire, when I drive into Massachusetts, which is a no-fault State, and I find myself in an accident, my policy covers me just as much under the laws of that jurisdiction as it would under the laws of my own State in which my car is registered and insured. This is true throughout the country. So that problem has been removed. But the significance of its removal does not mean that that is all we need to do. Its real significance is that we are not under the gun to enact some nationwide system, without moving with great care to know what we are doing.

So, this year, we come to the point where some 20 State legislatures have enacted some form of no-fault insurance law. Others are or will be considering enactment of such laws.

Thus, we are not standing still. We are not facing the desperate situation we were facing a few years ago. Rather, we are dealing with a problem that is being considered in practically every State of the Union. It has been the subject of careful study by several State legislatures. It has been the subject of constant consideration, discussion, and debate by the various insurance commissioners of all the States as they meet from time to time. All of these things have taken place. We are not running to a fire and yet we are behaving as though we were. I say, this without any criticism of any of my colleagues, and certainly not of the leadership, or the chairmen of the committees involved.

But, our Committee on Commerce did order S. 354 reported and it was referred to the Judiciary Committee.

I, too, voted to send the bill along. I did not think we were getting anywhere

with it. Frankly, I hoped that the Judiciary Committee, with all its experience, ability, and knowledge of the law would be able to accomplish what we in the Commerce Committee had not been able to do.

I do not know what happened in the Judiciary Committee, but apparently, it too, found a maze of confusion.

However, the Judiciary Committee did report the bill by, I believe, a vote of 8 to 7. It was a very close vote.

This bill, which contains many meritorious features, and whose purpose is good, proposes the establishment of nation standards for no-fault automobile insurance.

To get down to brass tacks, this Senator finds certain specific objections to it from the standpoint of the people he represents. It is the opinion of this Senator that this bill must, of necessity—and you cannot dodge it or escape it—take something from the pockets of the people who live in the small and rural and sparsely populated States and communities and while relieving the burden in the densely populated metropolitan areas. It cannot help but work that way. As a matter of fact, settlements in a rural State, such as mine, are much less than in the densely populated metropolitan areas.

If a standardized system is adopted, it may well reduce the premiums on insurance in New York City, or in Chicago, or in Los Angeles, or in some smaller cities, where there is some density of population. But, if it does, it is bound to increase somewhat the premiums in my own State and other sparsely populated States.

For example, it is characteristic—and I think it expresses a sincere desire on the part of Members of Congress—always to help, to extend a helping hand to everyone who needs it. It is a policy we have been following until we are almost in national bankruptcy.

Thus, in S. 354, on page 55, section 102(a)(2), congressional findings expressly include one that motor vehicle transportation significantly affects interstate commerce, "particularly in metropolitan areas encompassing more than one State * * *." There you have written right into this bill, in plain, straight English, an acknowledgment that this bill is weighted toward the inhabitants, as is expressed in the language of the bill on page 55, "particularly in metropolitan areas."

On page 58, section 102(b)(2), a congressional policy is expressed to establish "minimum standards which each State must meet or exceed." I repeat, "must meet or exceed." This, in itself, militates against rural States, since it is inherent that higher costing urban areas are to be averaged into the system.

It also means that rural States with a greater number of single-car accidents will have to take up such costs in no-fault claims.

Continuing to call attention to some of the specifics of this bill, on page 72, section 105(a)(5) requires a rating plan by the several States which "shall afford required coverages for motor vehicles to any economically disadvantaged individual." This obviously is directed to large urban areas.

We are not considering a charity bill. This is a business bill. This is not aid for the blind or for the disabled veterans. This is to set up some kind of national insurance system for which people must pay the premiums and receive the benefits. Yet, written into it is the direction that the Federal Government will require the States to have a rating plan that "shall afford required coverages for motor vehicles to any economically disadvantaged individual." What do they mean by an "economically disadvantaged individual"?

I recall a discussion in the committee during which I raised this inquiry. Somebody said they meant poor people who needed a car to get to their work, and who could not make a living for their family unless they had an automobile. Thus, this concept was added. But, who would pay for it? If special, low-rate automobile insurance is to be furnished, in all likelihood, it will be paid by a slightly higher cost for insurance premiums by the average citizen who cannot claim to be a disadvantaged person.

Section 109(b) on page 87 requires State insurance commissioners to provide cost comparisons for "rates being charged by insurers for no-fault benefits and tort liability coverage." Unfortunately, rural States, unlike urban States, may not have the capability to perform this task, except at additional administrative costs.

Section 109(c) on page 87 requires State insurance commissioners to "establish and maintain a program for the regular and periodic evaluation of medical and vocational rehabilitation services." Again, rural States, unlike urban States, may not have the capability to perform this task except at additional administrative costs.

It goes further than this. On page 88, section 109(d) authorizes the State insurance commissioners to "assure that emergency health services are available for each victim suffering injury in the State." Commissioner Whaland of my State of New Hampshire, in his testimony before the Judiciary Committee, suggested that this puts "the insurance commissioner in the role of regulating and developing the State's health care delivery system." Also, in rural areas involving considerable distances and inaccessibility to medical facilities, how can a State commissioner be accountable "for each victim"? And, does this provision mean a State commissioner is mandated to so perform without regard to the wishes of the State's Governor, or its legislature in this matter?

Mr. President, let me read from the bill rather than from the summary with respect to availability of services. On line 20, page 88, it provides the following:

(d) AVAILABILITY OF SERVICES.—The commissioner is authorized to coordinate with appropriate government agencies in the creation and maintenance of an emergency health services system or systems, and to take all steps necessary to assure that emergency health services are available for each victim suffering injury in the State. The commissioner is authorized to take all steps necessary to assure that medical and vocational rehabilitation services are available for each victim resident in the State.

Now, I emphasize this:

Such steps may include, but are not limited to, guarantees of loans or other obligations of suppliers or providers of such services, and support for training programs for personnel in programs and facilities offering such services.

Mr. President, this is not a health bill. It does not come from the Department of Health, Education, and Welfare or any of its organizations. It is supposed to be a business bill concerning automobile insurance. I am sure its framers earnestly want it to be designed to be a national no-fault insurance law. But, there creeps into it all these other provisions. Thus, under this bill when one buys a policy to put his car on the road—whether he lives in New Hampshire, North Carolina, Alabama, or California—he is paying something to enable the State to comply with a Federal law that says each victim—every single person within the confines of the State who suffers from an automobile accident—shall be assisted in rehabilitation, whatever that means.

That could go a long way. But, so there will be no misunderstanding with regard to rehabilitation, let me place in the RECORD the language which appears on page 64, line 3:

(16) "Medical and vocational rehabilitation services" means services necessary to reduce disability and to restore the physical, psychological, social, and vocational functioning of a victim. Such services may include, but are not limited to, medical care, diagnostic and evaluation procedures, physical and occupational therapy, other medically necessary therapies, speech pathology and audiology, nursing care under the supervision of a registered nurse, medical social services, vocational rehabilitation and training services, occupational licenses and tools, and transportation where necessary to secure medical and vocational rehabilitation services.

Now, that is a beautiful concept, Mr. President, but for the Congress of the United States to try to force every State in this Union to add to the cost of the insurance policies of its citizens to run that kind of rehabilitation program for "each victim" is just not what we up in New England, to use a favorite old Yankee expression, call commonsense. It simply is not practical.

If there is any doubt about this bill putting the Federal Government in the saddle and putting every State under its heel, I call attention to page 96 of the bill, section 201(d). As I read that provision, Mr. President, State insurance commissioners are made subservient to the Secretary of Transportation by mandating that they "shall submit to the Secretary periodically all relevant information which is requested by the Secretary."

I have just one more provision to mention. On page 100, section 204 restricts the authority of the States to limit benefits, providing, for example, unlimited medical and rehabilitation benefits, wage loss of not less than $15,000, and so forth. These limits are so high as to be directed to urban, not rural, needs which may be

capable of being met with lower limits and at a lesser cost.

Those are some of the provisions. Standing alone, each does not constitute a particular problem, but when we tie them all together, do not tell me that the passage of this bill in its present form is not going to cost more and make insurance more costly to the American people, certainly more costly in the rural States. It discriminates. It, in effect, takes money from my pocket in New Hampshire and puts it in the pocket of someone who lives in Chicago.

Incidentally, what happens to the small companies? Oh, I have heard so many speeches made on this floor in the 20 years I have been here. I have seen so many tears flow about small business. We are always solicitous about small business. Well, it is rather interesting to me that when we first began to struggle with this idea of a Federal standards bill for no-fault automobile insurance, some of the large insurance companies in this country seemed somewhat apprehensive and not too enthusiastic. But, that situation apparently has changed, because it is my understanding now that the large companies in this country like this bill.

Why? Well, there may be various reasons, but one reason is that, in the opinion of this Senator, we will put some very sound, fine small insurance companies out of business. I am thinking of three or four good, sound companies in my State. The Farm Bureau, the Northern Grange Insurance Co., and others have gone on to take private names in order not to confine themselves or restrict themselves to people of one vocation. But, we have half a dozen such companies. Their purpose is sound. They render good service. They pay up their claims promptly. In fact, they are noted for prompt attention when accidents occur.

As appears on page 978 of the hearings, we had the testimony before the Judiciary Committee of the president of one of those companies, a man whom I have known for 40 years, and I knew his father before he was president of that company, one of the most reliable businesses in the State. He said:

> We are opposed to this bill because insurance conditions in New Hampshire, Maine, Vermont, and, we believe, most of the other States in the Nation are not comparable to those in the larger metropolitan areas. But in forcing a single system on the States, Senate bill 354 disregards these differences and unfairly favors metropolitan areas. The bill, in fact, would relieve a few urban problems at the expense of the remainder of the country. Since approximately 80 percent of Concord General's 65,000 policyholders reside outside urban centers, we are alarmed by the discrimination against them that we think would result from the enactment of Senate bill 354.

Mr. President, I notice that my chairman and dear friend, the distinguished Senator from Washington (Mr. MAGNUSON), had to leave the Chamber a short time ago, because the members of his subcommittee are marking up an appropriations bill. I myself must join them as soon as possible. I wish he were here, because I should like to read into the record some of the testimony of Karl Herrmann, commissioner of insurance of the State of Washington, who incidentally is quite obviously a close friend and admirer of the distinguished Senator from Washington (Mr. MAGNUSON). This is what he said, starting on page 394 of the Judiciary Committee hearings:

> I want to say first, that I have a great repect for our senior Senator, Senator Magnuson, from the State of Washington. I do not think that it has been any accident that he has stayed in the U.S. Senate to become one of the top ranking Members with seniority. I believe the record will show that Senator Magnuson has always been on the side of the people, especially those who are the breadwinners for the family, those people who are having a hard time making ends meet. The people that are living from paycheck to paycheck have had their causes championed by Senator Magnuson. I do not know of any instance where he has not been on the side of the consumer and on the side of his constituents.
>
> Now, I am not here to cross swords with him. I differ in the method of approach, but as far as the end result is concerned, of coming up with a better product, coming up with a better method of covering the people who are insured by automobile accidents, I believe we are in entire accord.

Then he goes on to say:

> I believe in State regulation. I think that the Congress under the McCarran-Ferguson Act was wise in leaving it where it has always been historically. I think this would be just letting the camel getting his nose under the tent. Therefore, even though I agree with Senator Magnuson that this matter of leaving the auto accident victims out in the cold has to be remedied. I just believe that you must give the States a chance to act. I know you say: Well, they have had that for a long time. We have got 19 States moving now and we will come up with some real-world experience. Then we won't be depending on the guess work of actuarial studies that will prove anything they start out to prove.

Although it is not strictly pertinent to the bill, but because of my warm personal friendship and great admiration for my distinguished chairman, Mr. MAGNUSON, I shall not refrain from placing in the RECORD the concluding words of Mr. Herrmann, the insurance commissioner of the State of Washington. He said:

> Senator, I just want to say this about Senator Magnuson. The Good Book says in substance: Rebuke a fool and he will hate you, but if you differ with a wise man, he will love you. And I think Senator Magnuson fits in the latter category. I have never seen him ruffled because you didn't agree with him if he feels that your motives are sincere and that you believe in what you are saying when you oppose some of his ideas.

I think that is a rather remarkable characterization of the chairman of the Commerce Committee. In the many years I have served with him, I have found this to be true. One can differ with him as long as he knows you are sincere, and nothing ruffles him because of that.

I regret to disagree with him on this bill. It is a dangerous bill. It is an unnecessary bill. This picture is moving, and moving rapidly, in the right direction. The bill is filled with experiments that have not been justified.

I believe that the bill is an entering wedge, quite possibly for the taking over by the Government of insurance in this country. It certainly invades the province of the States and invades those places where the States are in a position to act much more wisely, with greater knowledge of their own circumstances and of the needs of their own citizens, than are we in the Halls of Congress.

In view of the progress that has been made, and the fact that the real damages and injuries that have been suffered, because of the inadequacy of the old tort system, have, one by one, been remedied to the point where there is at present no real injustice that cries out for instant and hasty remedy, I feel that this measure is not needed.

I am going to say, without reflection on any of my colleagues, that in this Senator's opinion this measure is being acted upon without adequate consideration. Already we are being asked to adopt, very shortly, a time limitation to force the measure to a vote. Important amendments are to be offered. I hope they will be carefully considered. The bill might even be remedied to the point where some of the unjust features might be taken from it, so as to provide flexibility to each of the several States.

I may say to the distinguished Senator from Utah that I did not intend to take so much time. I appreciate his courtesy and his patience.

Mr. President, this concludes my general statement on the bill.

Mr. HELMS. Mr. President, I commend the distinguished Senator from New Hampshire, and desire to associate myself with the very fine and penetrating analysis he has just offered with respect to S. 354.

I would add a few thoughts to what the distinguished Senator has so eloquently said about this measure—and the whole question of "no-fault" insurance.

Mr. President, the so-called National No-Fault Motor Vehicle Insurance Act, if approved, would constitute a radical departure from a longstanding congressional policy—a policy that provides very plainly that the State governments are the most appropriate level for the regulation of insurance. In fact, they are the only—and I stress the word—the only appropriate level.

From its beginning the business of insurance has been regarded as a local matter, to be subject to and regulated by the laws of the various States. This view was fostered and augmented by decisions of the U.S. Supreme Court for a period of 75 years beginning with the case of *Paul* v. *Virginia* in 1869, 75 U.S. (8 Wall.) 168, 183, which held that insurance was not interstate commerce and that the State of Virginia could properly regulate the business of insurance within its borders.

This ruling was reiterated by the Supreme Court in the 1895 case of *Hooper* v. *California*, 155 U.S. 648, 654, and again in the 1913 case of *New York Life Insurance Co.* v. *Deer Lodge County*, 231 U.S. 495, 503.

Then, in the 1944 case of *United States* v. *Southeastern Underwriters Association*, 322 U.S. 533, the Supreme Court held for the first time that insurance transactions across State lines constituted interstate commerce. This decision,

of course, was a virtual invitation to Congress to regulate this area of control that throughout our national history had been left to the individual States. Within less than 1 year following the Court decision, Congress passed the McCarran-Ferguson Act, which provides in part as follows:

> Congress hereby declares that the continued regulation and taxation by the several states of the business of insurance is in the public interest, and that silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several states.

This declaration of policy currently appears as section 1011 of title 15 of the United States Code.

In 1959, Justice Douglas expressed the opinion of the Court in these words:

> We start with a reluctance to disturb the State regulatory schemes that are in actual effect, either by displacing them or by superimposing federal requirements on transactions that are tailored to meet State requirements. When the States speak in the field of "insurance," they speak with the authority of a long tradition. For the regulation of "insurance," though within the ambit of federal power, has traditionally been under the control of the States. *Securities and Exchange Commission v. Variable Annuity Life Insurance Company of America*, 359 U.S. 65.

If this legislation is approved, it not only will disrupt existing State regulations and the present structure of the insurance industry in many areas, but it also will create yet another Federal bureaucracy within the Department of Transportation to monitor State governments in an unceasing effort to determine whether they are complying with the so-called "national standards." Federal bureaucrats will be mandated to make such determination as whether the terms and conditions of insurance contracts approved by a State insurance commissioner are "consistent with the purposes of this act." One might well wonder what kind of proliferating "red-tape" and general harassment our State officials will be subjected to at the taxpayer's expense.

By the end of 1972, 35 State legislatures had considered a no-fault plan and rejected it. This should tell us something. In any event, it is a State decision. I urge that the States be allowed to make it.

Mr. FANNIN. Mr. President, I rise to state my opposition to S. 354, the no-fault motor vehicle insurance bill. This bill was voted out of committee by an almost equally divided vote. I have studied the lengthy majority and minority views of the report and am more convinced than ever before that this is a bad bill and should not pass.

Perhaps my greatest concern is with its effect on Federal-State relationships. As I understand the bill, each State could establish a State no-fault plan which meets or exceeds the national standards set forth in S. 354. If a State does not establish a no-fault plan in accordance with title II during its first legislative session, an alternative State no-fault plan, title III of the bill, would become applicable and go into effect in that State 9 months later. Thus, by compelling the States to create agencies and to staff and fund them to administer a Federal law, this bill forces the States to become agents of the Federal Government.

Mr. President, I am shocked that we may have reached the point where we are seriously considering a measure which provides the ultimate in the centralization of our government. I leave to the constitutional lawyers of the Senate to argue the constitutionality of this bill. To me, it appears to violate the sovereignty of the States as provided by the 10th amendment.

The McCarran-Ferguson Act of 1945 established the principle that insurance is a matter left to the States to deal with. The Nation will fare best if the States, which are closest to the people, can respond to the needs of its citizens. The power to regulate insurance has been traditionally retained by the States. Mr. President, the States have been extremely active in this field of no-fault insurance. Twenty-one States have enacted no-fault insurance laws. While my State of Arizona is not among the 21, it is a matter which our legislature has been considering for the last several years. Perhaps one of the compelling reasons for such inaction is the pendency of this bill and previous bills in the last Congress. Why pass a State law which may not meet the standards imposed by the almighty U.S. Congress, only to see it repealed because of the preemption of Federal law? What will happen to the no-fault law already enacted by the 21 States? How many, if any, will meet the standards of S. 354? It is my understanding that their laws differ in many respects. It is only normal that they should differ because State legislatures respond to the needs of the citizens of their States. I would expect the most recently passed no-fault law of Kentucky to differ from the earlier passed law of Massachusetts.

Mr. President, the McCarran-Ferguson Act enacted by Congress in order to establish a national policy governing the regulation of the insurance industry clearly demonstrates that Congress intended to reaffirm the States' power to regulate insurance and to insure that State regulation would not be impaired or overridden except by specific and explicit congressional enactments. S. 354 contradicts this long-established policy by incorporating provisions which are in direct conflict with this national policy and which interfere with existing State automobile insurance laws and regulations.

Mr. President, my second reason for opposing this bill is that it will substantially increase the rates which residents of my State of Arizona and residents of the majority of the States will pay for their automobile insurance. Arizona has continued to be a great State for retired people. Their numbers multiply from decade to decade. My mail from these senior citizens of Arizona is overwhelmingly in favor of this bill, S. 354. All express the same reason for urging me to vote "yes." They say it will greatly reduce their insurance rates, and are for anything that lessens the inflationary effect upon their fixed incomes. Mr. President, this is a cruel hoax. I have studied the tables which are a part of the minority appendices of the report starting on page 63. They demonstrate that the citizens of Arizona will pay at least 16.6 percent more for their insurance if this bill becomes law (page 83). True, citizens of New York, New Jersey, Massachusetts, and Connecticut will pay less for their insurance. In general, there may be a saving in premium costs in the highly industrial States, but in the overwhelming majority of the States, the cost will be more. I urge the Senators to study these tables before voting on this bill.

If this bill becomes law, the increased rates will fall more heavily on residents of rural areas and low-income people who can least afford them. In addition, expert analysis of S. 354 reveals its cost impact would fall hardest on the private passenger driver. At the same time, windfall savings of $700 million annually would be given to commercial vehicle operators, such as truckers, rental car firms and taxi fleets. Quoting from page 54 of the report:

> Using the State of California as a model, under tort, about 20% of the liability premium is paid by commercial operators; but under no-fault they will pay only about 10% after the threshold savings take effect.

One of the advantages that arises for the commercial operator is that his insurance premiums are deductible for income tax purposes while this is not true with respect to the private car owner.

Mr. President, my third reason for opposing this bill is that it is anticompetitive. We are told that the insurance industry and negligence lawyers are the only source of opposition to this bill. Not true. S. 354's mandate for unlimited medical and rehabilitation coverage and Federal regulation could drive small and marginal insurance companies out of business. Medium-sized insurers would be dealt a heavy blow. These smaller companies now comprise approximately one-half of the industry. Competition has played a major part in making America great. The small companies through their innovative efforts and expertise in meeting the special insurance needs of their customers are indispensable. I cannot vote for a bill which could create a monopoly for the giant insurance companies.

Mr. President, there is another aspect of no-fault which has always troubled me. Actuarially, a driver's past accident record is a good indicator of his probable future accident frequency. I believe the accident-prone driver should pay a higher premium rate and the safe driver should be given the benefit of a lower rate. This merit rating concept is now followed by most automobile insurance companies. If we embark upon a system under which the wrongdoer pays the same as the careful driver, there is not the deterrent psychological effect. I strongly believe in the person's accountability principle. The idea of abandoning responsibility is based in part on the assumption that auto crashes are really nobody's fault—that they are more or less random events, the inevitable consequence of a motorized society. But there is strong evidence to the contrary. A startling high percentage of all serious

auto accidents involve flagrant driver negligence.

Mr. President, 21 States have now enacted no-fault laws, and it appears there will be more within the next year. We have been in a period of testing and proving. If we are to pass a Federal law, no matter how much I disapprove of federalization, I want the best law possible and we do not, as yet, have sufficient State experience to guide us.

Mr. President, the statements that this bill does not federalize automobile insurance regulation cannot be accepted in light of the bill requirements themselves. The bill contains requirements which would exceed existing authority of State insurance regulators; which would overlap existing State automobile insurance laws and regulations and which would require substantial State legislative action; and regulations which are in direct conflict with existing State automobile insurance regulatory laws.

The clear and unambiguous language of McCarran-Ferguson was intended to reaffirm the States' power to regulate insurance and to insure that State legislative plans would not be impaired or overridden except by specific and explicit congressional enactments. Indeed, drafters of S. 354 recognized this congressional policy and give token acknowledgment of their acceptance of it. Section 102 of the bill sets out the need to "recognize, respect, and avoid interfering with the historical role of the States in regulating a legislative authority over the business of insurance." However, having thus piously acknowledged the desirability of continuing this long established public policy, the framers of the bill proceeded to incorporate into the bill provisions which are in direct conflict with this national policy and which contradict and interfere with existing State automobile insurance laws and regulations.

S. 354 directs that the ultimate judgment as to whether automobile insurance business is being regulated be made not by the States, nor by Congress, but by a Federal administrative agency, the Department of Transportation. Consider, for example, the Department of Transportation's role under this bill. It would determine whether a State insurance commissioner has established and maintained a medical and vocational rehabilitation program; whether the law of the State complies with title II; whether a State insurance commissioner has established an assigned claims plan; whether a State insurance commissioner has established a consumer information system; whether a State insurance commissioner has established an insurance system through which required no-fault benefits and tort liability coverages will be offered to consumers; whether a State insurance commissioner has regulated self insurance; whether the automobile insurance rates of the State are unreasonable and not unfairly discriminatory among similarly situated applicants; whether a State insurance commissioner has submitted data to the Department of Transportation; whether the terms and conditions of the insurance contract approved by the State insurance commissioners are consistent with the purposes of the act and fair and equitable to all persons whose interest may be affected.

Mr. President, I submit that this bill follows the legislative pattern of other Federal regulatory legislation, wherein Congress enacts broad regulatory policies and charges Federal administrative agencies with the responsibility for implementing those policies. Mr. President, I cannot reconcile this with the existing policy to leave regulation of insurance to the States.

Mr. President, most specifically, consider the following sections of the bill in light of the McCarran-Ferguson Act policy and the bill's own acknowledgment of this policy.

Section 109(c) would require the insurance commissioner to establish and maintain, for automobile accident victims, medical and vocational rehabilitation programs, including the establishment of procedures to evaluate treatment rendered, charges for services and the rendering of periodic reports. Not a single State insurance commissioner has such authority today. To the extent that such authority does exist in the States it is being exercised by State vocational rehabilitation agencies. For the State insurance commissioner to involve himself as required by S. 354 would necessitate specific State legislative action. Moreover, it is questionable whether the States would respond to this Federal mandate, since it is poor management to detach responsibility for the rehabilitation of automobile accident victims from another State agency which has the expertise in rehabilitation.

Section 109(d) "authorizes" the State insurance commissioner to coordinate with other appropriate Government agencies "in the creation and maintenance of an emergency health services system." First of all, no State insurance commissioner has such authorization; other State officials have this responsibility. Again, the desirability of establishing an emergency care system for automobile accident victims is highly questionable. However, apart from this, it is wrong to assume that Federal legislation is either required to permit the States to grant this authority to their insurance commissioner or that Federal legislation can, by itself, provide this increased authority to the State insurance commissioners. This "authorization" is illustrative of the basic fallacy in which this bill views State-Federal relations.

Section 108(b) would require State insurance commissioners to establish assigned claims plans. Few State insurance commissioners have this power today, and their authority to establish such plans must come from State laws and not from Congress.

Section 109(b) requires commissioners to establish a consumer information system to permit purchasers of automobile insurance to compare prices, rates, et cetera. The establishment of such programs would require the gathering of statistical data at costs often beyond that permitted by the budgets of some State insurance departments. Thus, this provision would require, at the very least, substantial increases in those budgets.

Today, every State insurance law requires the State insurance commissioner to regulate self-insurance. But, the methods of regulations vary as the need for regulations vary among the States. Under this bill no longer would State officials be able to carry on with their administration of self-insurance under their State insurance law.

Section 105(a) would require each State insurance commissioner to establish and implement an insurance system through which any required no-fault benefits and tort liability coverages will be conveniently and expeditiously available. Each State has a plan through which any licensed automobile insurance driver can secure insurance today. But, as should be expected, because of local situations, these plans vary substantially among the States. However, section 105 sets forth specific standards for the operations of these plans. For instance, commissioners would be required to insure that these plans provide coverage to the economically disadvantaged in need of their automobiles for work-related purposes at a subsidy. Not only is this particular requirement absent from any existing State plan, but on its face it is discriminatory, and contrary to the basic foundation of every single State rating law, which, without a single exception, are predicated on the requirements that rates shall not be excessive, inadequate, or discriminatory.

Section 201(d) would require the State insurance commissioner to submit to the Federal Department of Transportation "periodically for all relevant information which is requested by the Secretary" for the purpose of evaluating whether the State automobile insurance reparation plan is in accordance with Federal requirements. This would require the State insurance commissioner to collect, on a periodic or routine basis data requested by a Federal agency which may be of little or no value in assisting him in discharging his obligations. Moreover, the collection of data and information is a costly undertaking. Insurance commissioners do collect a considerable amount of data today to assist them in implementing their responsibilities. However, in order to avoid conflicting data collection systems, existing statistical gathering programs would have to be abandoned if they are different from Federal requirements. Thus, the quality of State insurance regulations may very well suffer because of an inadequacy of information which State insurance commissioners may feel is needed for proper implementation of State laws.

Section 211(b) limits the powers of the State insurance commissioners to approve the terms and conditions of any contracts, certificates, or other evidence of insurance to those which "are consistent with the purposes of this act and fair and equitable to all persons whose interests may be affected." Thus, very clearly, "the purposes of this act" vary from the purposes of a specific State law, that insurance commissioners would be powerless to approve those terms and conditions of insurance contracts which attempt to implement State insurance requirements.

Section 105(b) deals with cancellation, refusal to renew, or termination of the automobile insurance contract. Every single State insurance law does restrict substantially the right to cancel automobile insurance contracts. But, not a single State follows the detailed and often unrealistic provisions contained in this section.

Section 108(a)(D) would require that in case of an insolvent insurer, the insured shall collect his basic restoration insurance benefits from the assigned claims plan. This provision is in direct conflict with laws existing in 47 States and the District of Columbia for the payment of benefits and the reimbursement for unearned premiums to victims of insolvent property and casualty insurance companies. Ironically, the Federal insolvency program which would be imposed by this section and which would vacate existing State plans falls far short of the protection which consumers presently enjoy. State plans reimburse policyholders of insolvent companies for unearned premiums. Section 108(a)(D) contains no such protection. Let it be noted that the Senate Commerce Committee, when studying the automobile insurance insolvency question was very critical of then existing State plans because of their failure to provide reimbursement to policyholders for unearned premiums. Accordingly, all existing State insolvency plans were amended to provide for such consumer protection and no plan enacted thereafter failed to so provide.

Section 209 requires that insurers make available certain automobile insurance coverages over and above "basic restoration benefits." These mandatory offerings are in direct conflict with existing State insurance law provisions. Thus, once again, the Federal insurance law and regulations and requirements would preempt and replace existing State insurance codes.

This has not been an exhaustive presentation of the substantive provisions of S. 354 which not only conflict, contradict and interfere with existing State automobile insurance laws and regulations but also fly in the face of the avowed purposes of S. 354. The examples are merely illustrative in order to demonstrate that S. 354 is in direct contradiction with national policy as reflected in the McCarran-Ferguson Act.

Mr. President, I am not arguing that Congress is forever bound to the policy established in McCarran-Ferguson. However, I believe that if there is to be any change in such a policy, such a change should be confronted squarely by Congress rather than affecting a repeal through this bill. Again, Mr. President, I do not believe that this long established national policy should be overturned without careful consideration as to the total impact which such change would bring about, including the probable increase in the concentration of the automobile insurance business in a few companies since the smaller companies would find it difficult to compete and would ultimately be merged into the larger ones.

Mr. President, supporters of this bill would like for us to believe that the Federal regulatory requirements imposed on the States by this bill are mere details. But, these details are the nuts and bolts which allow the insurance companies to provide automobile insurance protection to consumers. These details are the State automobiles insurance codes. They represent carefully evaluated legislative plans which balance out the interests of consumers and the business community. This assures that healthy competition can strive among the companies while proper protection can be provided to consumers.

Mr. President, we are also being told that the insurance regulatory plan under this bill is no different from those plans which Congress authorized under the National Flood Insurance Act, the Federal Crime Insurance Act, or the Federal Riot Reinsurance Program. But, Mr. President, even if this were so, let us see how this so-called State-Federal relationship has evolved.

First, as to the flood insurance program. In a letter dated March 1, 1974, to all Federal and State agencies, the Federal Insurance Administrator stated that—

> It is the view of the Federal Insurance Administration that the intent of the Congress in the Flood Disaster Protection Act requires the exclusive use of the federal flood insurance policy issued by the National Flood Insurance Association under the National Flood Insurance Act of 1968 and know as the Standard Flood Policy.

Thus, Mr. President, has a Federal monopoly in the area of flood insurance been created. I would hesitate, Mr. President, to call this a good example of constructive federalism.

As to the Federal crime insurance program which has also been cited as an excellent example of constructive federalism, I found the following statements in the regulations issued by the Department or Housing and Urban Development:

> The crime insurance program authorized by the Act is a direct federal program and its operations, receipts, and funds are exempt from any form of federal, state or local taxation.

And again—

> No federal crime insurance policy issued by or on behalf of the insurer shall be subject to any state or local tax or insurance law or regulation.

Mr. President, these statements are hardly in support of constructive federalism.

As to the Federal riot reinsurance program, in a recent address delivered by the Federal Insurance Administrator, a statement was made to the effect that as a direct result of the regulations issued by the Federal Government under this program, the Federal Insurance Administrator now effectively controls the regulation of property insurance in the United States. Again, Mr. President, not a very good example of constructive federalism.

Mr. President, even if I could be persuaded that the national policy established in McCarran-Ferguson should be reversed, I could not vote for this bill, since it is structurally sound and is based on constitutional theories of State-Federal relations which are beyond the realm of possibility.

I will not argue the constitutional issue. It stretches the boundaries of my imagination to be able to accept the fact that Congress could enact a Federal law which would be applicable in a State and which would mandate State legislatures to appropriate funds and State officials to implement the law. If Congress is to impose its will on a State it can do so, but it must use its own money and Federal manpower unless the States voluntarily cooperate with the Federal mandate.

Mr. President, we are told that we should not worry about this, since the State will unquestionably cooperate and knuckle under the Federal mandate for the privilege of staying in the business of regulating automobile insurance. I would not depend on this. I believe that recent history has demonstrated that when Congress has attempted to impose its regulatory will on the States in fields which have been previously regulated by the States, States have withdrawn from the field. Many of the regulatory requirements of S. 354 are highly controversial. They will require expensive legislative action before becoming amenable to State administrations. I firmly believe that some States will refuse to enact these Federal automobile regulatory requirements. In those States, insurance commissioners will find it impossible either to administer their State insurance laws which are contrary to the Federal requirements or the Federal law.

Since the bill fails to provide for the establishment of a Federal agency to implement the regulatory functions in S. 354, I am convinced, Mr. President, that within a very short time we will be asked, by emergency legislation, to establish such a Federal automobile insurance administration in order to avoid the inevitable chaos which the displacement of State regulation will create. Mr. President, it is imperative that we recognize that if we vote for this bill today, we will be asked tomorrow to establish a Federal automobile insurance regulatory administration, funded by Federal funds, placing additional pressures on the Federal Treasury and Federal budget.

Supporters of the bill, Mr. President, have told us that the States will cooperate. They have pointed to the excellent cooperation afforded the Cost of Living Council by State insurance commissioners regarding insurance price control regulation. Let me say, Mr. President, that I applaud the cooperation offered by State insurance commissioners to the Cost of Living Council. But, Mr. President, there were some exceptions, notably the commissioner of insurance from the State of Pennsylvania, who rejected any assistance to the Cost of Living Council and refused to cooperate to assist the Council in implementing the regulations related to insurance price controls.

Mr. President, the bill which we have before us today is neither fish nor fowl. It says that it wants to maintain State regulation of automobile insurance busi-

ness, but it does impose a Federal regulatory scheme on the States. It says that it wants to depend on State administrators to implement the law, but it knows that what it proposes stretches the limits of federalism and begs for sequel legislation establishing a Federal automobile insurance regulatory agency.

Mr. President, the issue of no-fault by itself is sufficiently fraught with constitutional questions to make it totally unwise and unwarranted to further burden no-fault legislation with grave constitutional impediments. This is what has been done in S. 354. I do not believe, Mr. President, that it would be responsible on the part of Congress to enact legislation which affects the daily lives of practically every individual in this country, and which contains so many unrelated constitutional problems.

AMENDMENT NO. 1132

Mr. MOSS. Mr. President, is the bill open to amendment at this time?

The PRESIDING OFFICER (Mr. HELMS). The bill is open to amendment.

Mr. MOSS. I call up amendment No. 1132. The principal sponsor of this amendment is the Senator from Washington (Mr. MAGNUSON), and I am a cosponsor. The Senator from Washington has asked me to call it up at this time, and therefore I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment (No. 1132), which is as follows:

AMENDMENT No. 1132

On page 91, line 6, delete "(2) and (3)" and insert in lieu thereof "(2), (3), and (4)".

On page 91, lines 14 and 15, delete "based upon a determination of fault".

On page 92, line 5, delete "(3)" and insert in lieu thereof "(4)".

On page 92, between lines 4 and 5, insert the following new paragraph:

"(3) Notwithstanding the provisions of paragraph (1) (B) of this subsection, a State may grant a right of reimbursement among and between restoration obligors based upon a determination of fault, where such restoration obligors have paid or are obliged to pay benefits for loss arising out of an accident resulting in injury in which one or more of the motor vehicles involved has an unladen weight in excess of eight thousand pounds: *Provided*, That in such event such right of reimbursement may be granted only with respect to benefits paid for loss in excess of $5,000.".

Mr. MOSS. Mr. President, several of my colleagues have expressed concern over S. 354, the National No-Fault Motor Vehicle Insurance Act, because they fear that owners of heavy commercial vehicles will experience a substantial savings in their vehicle insurance premiums. They point out that these savings in their vehicle insurance premiums may very well surpass the savings of the ordinary passenger car owner and argue that such a savings constitute a "windfall."

The Senate Commerce Committee was aware of the possibility that owners of heavier commercial vehicles would experience substantial premium savings. Therefore, the committee provided a mechanism whereby a State could provide for the redistribution of the insurance premium burden by allowing the insurers of passenger cars to be reimbursed by the insurers of passenger cars on some basis other than fault—on the basis of weight, for example.

Because some people have argued that loss shifting on the basis of weight would not be adopted by the States and that loss shifting on the basis of fault for heavy commercial vehicles would be more appropriate, I call up for the consideration of my colleagues on the Senate floor the following amendment to S. 354.

The amendment would permit reallocation of loss between heavy vehicles—over 8,000 pounds unladen weight—and other vehicles based upon fault if a State decided such reallocation was necessary to prevent a "windfall." This determination of fault would be at the insurer level, and would not affect the ability of the accident victim to recover timely compensation without regard to fault. In order to insure owners of heavy commercial vehicles some advantages under a no-fault system the amendment preserves a no-fault, even at the insurance company level, for the first $5,000 of loss.

Mr. President, that is the thrust of this amendment. It makes a differentiation between large trucks and other passenger vehicles below 8,000 pounds in unladen weight. The amendment has been considered and discussed.

As the Senate will notice, of course, this places an option with the State as to whether it decides such reallocation is necessary to prevent windfalls. Since the thrust of this bill is to leave with the States the maximum degree of administrative function in the no-fault law, it is felt that this would be a proper amendment to the pending bill.

I offer this proposal for the consideration of the Senate. The amendment, I might note, was submitted on the first of April, and there has been plenty of time for consideration. So far as I know, there has been no opposition expressed to the amendment.

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

Mr. GRIFFIN. 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 FOR RECOGNITION OF SENATORS HARRY F. BYRD, JR., AND BAYH TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), and the distinguished Senator from Indiana (Mr. BAYH) be recognized each for not to exceed 15 minutes, and in that order.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, that after the two orders for the recognition of Senators have been completed tomorrow, there be a period for the transaction of routine morning business, not to extend beyond 12:45 p.m., with statements therein limited to 5 minutes each. I believe that the distinguished majority leader has already gotten consent that at 12:45 p.m. tomorrow the Senate will go into executive session.

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

QUORUM CALL

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

AMENDMENT OF WILD AND SCENIC RIVERS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9492.

The PRESIDING OFFICER (Mr. HELMS) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 9492) to amend the Wild and Scenic Rivers Act by designating the Chattooga River, North Carolina, South Carolina, and Georgia as a component of the National Wild and Scenic Rivers System, and for other purposes, which was, on page 2 of the Senate engrossed amendment, strike out all after line 8 over to and including line 4 on page 5, and insert:

(b) In section 4 delete subsection (a) and insert in lieu thereof the following:

"SEC. 4. (a) The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and submit to the President reports on the suitability or nonsuitability for addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as potential additions to such system. The President shall report to the Congress his recommendations and proposals with respect to the designation of each such river or section thereof under this Act. Such studies shall be completed and such reports shall be made to the Congress with respect to all rivers named in subparagraphs 5(a) (1) through (27) of this Act no later than October 2, 1978. In conducting these studies the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers with respect to which there is the greatest likelihood of developments which, if undertaken, would

render the rivers unsuitable for inclusion in the national wild and scenic rivers system. Every such study and plan shall be coordinated with any water resources planning involving the same river which is being conducted pursuant to the Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 et seq.).

"Each report, including maps and illustrations, shall show among other things the area included within the report; the characteristics which do or do not make the area a worthy addition to the system; the current status of land ownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the national wild and scenic rivers system; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area, should it be added to the system, be administered; the extent to which it is proposed that such administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area, should it be added to the system. Each such report shall be printed as a Senate or House document."

(2) In section 5 delete subsection (b) and reletter subsections (c) and (d) as (b) and (c), respectively.

(3) In section 7(b)(i) delete all after "Act" and insert in lieu thereof "or for three complete fiscal years following any Act of Congress designating any river for potential addition to the national wild and scenic river system, whichever is later, and".

(4) In section 7(b)(ii) delete "which is recommended", insert in lieu thereof "the report for which is submitted", and delete "for inclusion in the national wild and scenic rivers system".

(c) In section 7 (b)(i) delete "five-year" and insert in lieu thereof "ten-year" and delete "publish" and insert in lieu thereof "notify the Committees on Interior and Insular Affairs of the United States Congress in writing, including a copy of the study upon which his determination was made, at least 180 days while Congress is in session, prior to publishing".

(d) In section 15(c) delete "for the purpose of protecting the scenic view from the river," and insert in lieu thereof "within the authorized boundaries of a component of the wild and scenic rivers system, including the protection of the natural qualities of a designated wild, scenic or recreational river area,".

(e) Delete section 16 and insert in lieu thereof:

"SEC. 16. (a) There are hereby authorized to be appropriated, including such sums as have heretofore been appropriated, the following amounts for land acquisition for each of the rivers described in section 3(a) of this Act:

Clearwater, Middle Fork, Idaho, $2,909,800;
Eleven Point, Missouri, $4,906,500;
Feather, Middle Fork, California, $3,935,700;
Rio Grande, New Mexico, $253,000;
Rogue, Oregon, $12,447,200;
St. Croix, Minnesota and Wisconsin, $11,768,550;
Salmon, Middle Fork, Idaho, $1,237,100; and
Wolf, Wisconsin, $142,150.

"(b) The authority to make the appropriations authorized in this section shall expire on June 30, 1979."

Mr. JACKSON. Mr. President, the purpose of this measure is to include the Chattooga River in the Wild and Scenic Rivers System and also to make various general amendments to the Wild and Scenic Rivers Act in order to strengthen the act in several respects.

H.R. 9492, which passed the House of Representatives on December 3, 1973, is virtually identical to S. 2385, introduced by Senators TALMADGE and NUNN. At the October 10, 1973, Public Lands Subcommittee hearing on S. 2385 and H.R. 9492, administration representatives, State officials, and public witnesses gave unanimous support to the designation of the Chattooga as a component of the Wild and Scenic River System. On the basis of that testimony on December 3, 1973, the full Committee on Interior and Insular Affairs unanimously agreed to report H.R. 9492 to the Senate. In addition, the committee agreed to add the provisions of S. 921—containing certain amendments to the original Wild and Scenic Rivers Act, 82 Stat. 906—which previously passed the Senate on September 24, 1973. The addition of this amendment was made necessary when the Senate was prevented from insisting on its language in S. 921 because the bill had been amended too many times to allow for a conference.

On March 22, 1974, the Senate passed H.R. 9492, as amended. In addition to designating the Chattooga River as a national wild and scenic river, the bill, as amended by the Senate, provided for five changes to the original act.

First, it would extend the moratorium on water resource projects for study rivers from 5 years from the date of enactment of the original Wild and Scenic Rivers Act to 10 years—thus shifting the moratorium deadline from October 2, 1973, to October 2, 1978.

Second, it would increase the funding authorization of $17,000,000 in the original act by $20,600,000 for a total authorization of $37,600,000.

Third, it would remove the authority of either the Secretary of Agriculture, without reporting to Congress, at his discretion to terminate the study of and remove protection for any river which Congress has designated for a study. The amendment would provide a minimum 3-year period for Congress to review a river study report whether it is positive or negative.

Fourth, it would place a definite 3 fiscal year limit on the studies by the Secretaries for all rivers designated for study by Congress either in the original act or any subsection act.

Finally, it would require the President, rather than one of the Secretaries, to report to Congress on each river study.

I ask unanimous consent to insert in the RECORD at this point a more detailed discussion of these provisions which appeared in our committee report—report No. 93-738—on H.R. 9492.

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

BACKGROUND AND ANALYSIS

Clause (b). The Wild and Scenic Rivers Act provided for the study of 27 rivers for possible inclusion in the national wild and scenic rivers system. A 10-year study period (until October 2, 1978) was established. However, under section 7(b)(i), the study areas were protected from water resources projects for only 5 years (until October 2, 1973). To date, only five river studies have been transmitted to Congress. The Administration has discarded entirely its earlier schedule calling for completion of all 27 studies by the October 2, 1973, termination date of the protection period. A newer schedule prepared early last year called for completion of most of the studies by midsummer 1974. However, this schedule is already outdated. The most recent schedule, prepared by the Bureau of Outdoor Recreation and the Forest Service at the request of Senators Haskell and McClure places the completion dates for a number of rivers three to five years from now. To insure the continued protection of these areas while the studies are being completed, clause (b) of H.R. 9492, as ordered reported, would extend the protection period for an additional five years so as to make it correspond to the study period (both periods concluding on October 2, 1978).

Clause (c). Section 16 of the original Act authorized the appropriation of not more than $17,000,000 for the acquisition of the initial components of the national wild and scenic rivers system. Some $16.9 million have been appropriated, but acquisitions have not been completed for seven of the eight original wild and scenic rivers. In testimony before the Subcommittee on Public Lands, Mr. James G. Watt, Director of the Bureau of Outdoor Recreation of the Department of the Interior, presented the breakdown of the estimated additional costs necessary to complete the acquisitions planned in each river area:

Clearwater, Middle Fork, Idaho	$2,160,000
Eleven Point, Mo	2,900,000
Feather, Middle Fork, Calif	3,850,000
Rio Grande, N. Mex	100,000
Rogue, Oreg	9,040,000
Saint Croix, Minn. and Wis	1,450,000
Salmon, Middle Fork, Idaho	1,100,000
Total	20,600,000

The Committee amendment would add the $20.6 million sum to the original funding authorization, thus providing a new authorization total of $37,600,000.

Clause (d). This clause would:

(1) put a definite time limit on the studies for all rivers designated for study by Congress in either the original Act or any subsequent Act;

(2) remove the authority of either Secretary, without ever reporting to Congress, at his discretion, to terminate a study of, and remove protection for, any river which Congress has designated for study; and

(3) provide that the President, rather than one of the Secretaries, report to Congress on each river study.

The original Act provided a ten-year time period for study of the 27 rivers designated for study in the Act. There was no provision similar to subsection (c) of section 3 of the Wilderness Act (78 Stat. 890) providing that "not less than one-third of the areas . . . (shall) be reviewed . . . within three years after enactment . . ., not less than two-thirds within seven years of enactment . . ., and the remainder within ten years of enactment. . . ." As noted in the discussion of clause (b), only five studies have been transmitted to Congress and the most recent schedule suggests that three to five more years will be required for completion of some of the studies. It was pointed out at the Public Lands Subcommittee hearing that long delays in completing studies not only endanger system status for rivers threatened by development, but also leave property owners in the unfortunate position of not knowing for an extended period what will be the future of their property.

A ten-year study period was, of course, logical for the original Act which called for 27 studies. However, future additions to the study category will be done on a case-by-case basis usually by separate Acts of Con-

gress. This process insures the spacing of studies. In addition, as manifested in the recent schedule, studies or the original 27 rivers are now spaced as to degree of completion. As time requirements on staggered studies would not appear to be onerous, part (1) of clause (d) provides a three complete fiscal year time limit on all river studies. The time limit runs from the date of enactment of any Act, subsequent to the original Wild and Scenic Rivers Act, which mandates the study of additional rivers and from the date of enactment of H.R. 9492 for the 27 original study rivers. The period is based on fiscal years to insure three complete rounds of appropriations for each study.

Presently, the original Act allows the relevant Secretary to terminate a study of a river at any time and remove the protection of the river should be decided that the river should not be included in the national wild and scenic rivers system. (In fact, Congress has received notice that two study rivers do not meet the criteria for inclusion in the Wild and Scenic Rivers System. This notification was provided in the form of brief letters from the Secretary of the Interior. No study report justifying these decisions was submitted, thus placing Congress in the position of being unable to evaluate whether such decisions were justified.)

In contrast to this approach, the Wilderness Act requires that all studies be completed and reported to Congress whether or not the recommendations are favorable or unfavorable to inclusion of the relevant areas in the national wilderness preservation system. Protection cannot be removed from certain areas under subsection 3(b) of the Wilderness Act until the reports are completed and submitted and "until Congress has determined otherwise".

Clause (d) takes a compromise position. It does not call for the unlimited protection provided in the Wilderness Act, but it does require completion of the river studies and allows Congress the opportunity to review them before releasing the river areas from protection. Parts (1) and (4) of clause (d) provide for *completion* of *all* studies mandated by Congress. (As noted above, this clause would also provide a study deadline of three fiscal years from enactment of this bill for the 27 rivers included in the original Act and three fiscal years for each river added to the study category by Congress subsequent to the original Act.) The protection period for rivers under study would be extended to October 2, 1978 by clause (b). However, in addition, the protection would be provided by part (3) of clause (d) for the three full fiscal year study periods for any rivers added to the study category if such periods would extend beyond the October 1, 1978 deadline (which would be the case for all Acts of Congress enacted after October 1, 1975). (Clause (d) does not afford protection indefinitely beyond these periods until Congress acts as does the Wilderness Act, rather it *preserves* the language of the original Wild and Scenic Rivers Act (clause 7(b)(ii)) which extends the protection for not more than three years to allow Congress to consider the reports. The original language is amended by part (4) of clause (d) only to comply with the intent of clause (d) to insure that Congress receives and will have the three-year opportunity to deliberate on reports on *all* the rivers it has directed to be studied, not just those which the relevant Secretary finds worthy of addition to the system.

Finally, to better provide for timely completion of the river studies, part (1) of clause (d) transfers the responsibility for reporting to Congress on the studies from the Secretaries of the Interior and of Agriculture to the President. As Senator McClure pointed out in the Public Lands Subcommittee hearing, the Wilderness Act language which places the duty of reporting the wilderness studies directly on the President was effectively evoked by Congress and the conservationists in their effort to expedite completion of the studies after early delays. It is expected that the provision of a similar responsibility for river studies will have a similar result.

Mr. JACKSON. Mr. President, the House, on April 10, 1974, agreed to the Senate amendment to H.R. 9492, and added an amendment of its own. H.R. 9492, as amended, which is before the Senate again today, preserves all of the provisions which were added in the Senate with one exception: The 3-year study limitation on any new rivers designated for study by the Congress is deleted. The House Interior Committee has informed our committee that it would prefer to place a time limitation for study in each bill which designates a new study river. This way the study period can be tailored at the time of passage of each bill to meet the unique circumstances concerning the particular river to be studied and the immediate capability of the relevant agency to conduct the study.

This appears eminently reasonable and my colleagues on the committee have informed me that they are perfectly agreeable to this approach.

The House amendment of April 10, 1974, made three additional changes in H.R. 9492. Two of these three changes were originally part of a separate House bill which was reported by the House Interior Committee, adopted by the House without opposition, and added to S. 921. The changes would: First, redefine the purpose for which scenic easements may be acquired within the river corridor to include not just the protection of the "view from the river" as the original act provides but rather the protection of the "natural qualities" of the river area; second, take the $20.6 million new moneys authorized by H.R. 9492, as amended by the Senate, for acquisitions in the corridors of the wild and scenic rivers designated in the original act, and the $17 million already expended on those rivers and divide the total into individual authorizations for each of those rivers; and third, establish a deadline of June 30, 1979, for expenditure of the authorized funds.

Mr. President, I believe the House amendment strengthens the Wild and Scenic Rivers Act and fully coincides with the purpose of the Senate language in H.R. 9492. There are, however, several technical changes which must be made before this bill can be sent to the President. I, therefore, send to the desk an amendment to make the necessary changes and move that the Senate concur in the amendment of the House to H.R. 9492, with an amendment.

Mr. ROBERT C. BYRD. Mr. President, now, on behalf of Senator JACKSON, I move that the Senate concur in the House action with an amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

(a) In subsection (b):

(1) between "(b)" and "In" insert "(1)"; and

(2) delete paragraph (3) and insert in lieu thereof the following:

"(3) In section (7)(b) delete clause (i) and insert in lieu thereof the following:

'(i) during the ten year period following enactment of this Act or for a three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic rivers system, whichever is later, unless, prior to the expiration of the relevant period, the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, on the basis of study, determine that such river should not be included in the national wild and scenic rivers system and notify the Committees on Interior and Insular Affairs of the United States Congress, in writing, including a copy of the study upon which the determination was made, at least 180 days while Congress is in session prior to publishing notice to that effect in the Federal Register, and'".

(b) Delete subsection (c) in its entirety.

(c) In subsection (d):

(1) delete "(d)" and insert in lieu thereof "(c)", and

(2) delete "including the protection of" and insert in lieu thereof "for the purpose of protecting".

(d) In subsection (e) delete "(e)" and insert in lieu thereof "(d)".

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD).

The motion was agreed to.

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

The Senate continued with the consideration of the bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

Mr. MOSS. Mr. President, it is my understanding that further action on the Magnuson amendment is now to go over until tomorrow. Is that correct?

The PRESIDING OFFICER. Will the Senator from Utah restate his question?

Mr. MOSS. It is my understanding that inasmuch as we have proceeded to this point on the Magnuson amendment and are unable to complete it, it would go over until tomorrow. Or has there been any decision on that?

The PRESIDING OFFICER. There has been no agreement.

The Chair is advised by the Parliamentarian that both amendments cannot be pending at the same time. However, there can be a request for the Magnuson amendment to come up following the Abourezk amendment.

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

Mr. MOSS. I Yield.

Mr. ROBERT C. BYRD. The request has already been entered for the Abourezk amendment to be the pending question immediately after the Senate disposes of the nominations in executive session on tomorrow and returns to legislative session. That being the case, would not the Magnuson amendment, if it is not disposed of today, automatically be the pending question upon the disposition of the Abourezk amendment tomorrow?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOSS. So far as I am concerned, I am ready to act on the Magnuson amendment right now. However, I will not make any motion on the Magnuson amendment and will expect that we will return to it immediately tomorrow. I do have two or three points I wish to make on the bill in general, after which I will move that we adjourn.

The Senator from New Hampshire (Mr. COTTON), who serves on the Committee on Commerce, made a rather lengthy speech about the bill, which we have considered for years in our committee, which we have discussed thoroughly, it seems to me. He raised several points that I wish to indicate I think have been discussed and I believe have been answered in the committee.

He raised the question of constitutionality, which the Commerce Committee satisfied itself was not a real question, and that without question it is constitutional to have this bill. Then the bill was referred to the Committee on the Judiciary, and that committee, by majority vote, made a specific finding that it was constitutional. Therefore, I believe the question of constitutionality has been pretty well answered. We discussed that yesterday.

Second, he worried about the setting of rates by the States. The bill leaves the setting of rates to each State, and there can be no subsidy by New Hampshire residents of the insurance cost of New York residents. I believe that a careful review of the bill with respect to this point would make it apparent that each State is in control of its own rate structure and its own actuarial projections on what losses would be and the claims. Therefore, if it is a rural State, the rates would conform with whatever the experience of rural areas is. The same would be true with respect to metropolitan areas.

He was concerned about the definition of medical and vocational rehabilitation and emergency medical services. The terminology in the bill was taken from existing public law. It is not new or unexpected or broadened over what is used now in describing those services in other acts that have been passed by Congress and have been signed into law.

He also indicated that he was afraid that the small insurance companies, for some reason, would be disadvantaged and could not survive under this bill. On page 20 of the report of the Committee on the Judiciary, this matter was discussed rather fully. The casualty insurance industry has been writing and reinsuring contracts calling for the payments of unlimited medical, hospital, and rehabilitation benefits for several decades, with no problem whatever. The States of Michigan, and New Jersey have no-fault laws providing unlimited medical, hospital, and rehabilitation benefits already in effect. There are numerous small companies competing for automobile insurance in these States, with no apparent reinsurance difficulties.

Third, many of the companies raising the reinsurance argument against unlimited medical, hospital, and rehabilitation benefits in S. 354 are domiciled and competing for workmen's compensation business in States whose workmen's compensation laws provide for unlimited medical, hospital, and rehabilitation benefits. At least one of these companies, American Family Mutual Insurance Co. of Madison, Wis., is also licensed to write automobile insurance in Michigan. (See Best's Insurance Reports (1973).)

Fourth, the trade association representing the majority of the Nation's professional reinsurers has studied S. 354 and concluded that "there will undoubtedly be adequate reinsurance capacity available in the American market in the event that S. 354 becomes law . . . at a cost commensurate with the experience and exposure of that particular primary company."

Fifth, the reinsurance needs of individual insurance companies vary substantially according to such things as company size, capital and surplus, the nature of the business written by the company, its areas of operations, its loss experience, and its growth objectives. Thus, it is impossible for any one company or group of companies to generalize about the reinsurance needs or problems of the entire industry on the basis of its own experience.

I think, therefore, that the small insurance companies would have no more difficulty functioning under this National No-Fault Motor Vehicle Insurance Act than they have now. As a matter of fact, each of the States would have its own regulation and its own control over these companies and there would be no different relation than now.

THE SEARCH FOR RELIABLE COST INFORMATION

During the debate on no-fault automobile insurance at the Federal and State levels, a wide variety of cost estimates have been provided by both proponents and opponents. The estimates of opponents usually show a cost increase, and those of proponents generally show a cost decrease for a given no-fault plan. In order to eliminate the bias and guesswork in the costing of no-fault automobile insurance plans, the National Association of State Insurance Commissioners, in cooperation with the Department of Transportation, conducted a search for a reliable actuarial firm that could cost various no-fault plans at the State and Federal level upon which policymakers could rely. After an intensive search, the National Association of Insurance Commissioners selected the actuarial firm of Milliman and Robertson to develop a standardized computer costing model which could be applied to various no-fault plans to produce reliable and comparable costing results.

EVALUATION OF THE JUDICIARY MINORITY STAFF ANALYSIS OF THE COST IMPLICATIONS OF S. 354

In the minority appendices to the Senate Judiciary Committee report, there are a number of cost figures pertaining to no-fault bills. For example, in appendix A the minority appendices present projected cost information of the National Association of Independent Insurers who are strongly opposed to S. 354. The cost information presented in appendix A, however, pertains to the no-fault bill reported by the Senate Commerce Committee in the 92d Congress (S. 945). That bill was substantially different from the minimum benefit levels required in S. 354. For example, a minimum of $50,000 of wage loss was required, whereas the minimum in S. 354 is $15,000 of wage loss.

Under S. 354, it is axiomatic that the higher the percentage of drivers purchasing compulsory insurance, the lower the cost of the insurance to each individual motorist. Milliman and Robertson, Inc., have assumed that under the compulsory insurance features of S. 354 there will be only a 50-percent improvement in each State in the percentage of insured motorists. On the basis of experience with present compulsory insurance programs, it is reasonable to assume that a State could achieve greater than a 50-percent improvement in its uninsured motorist population. Were this to happen, the projected percentage of average personal injury premium savings would be increased.

Milliman and Robertson also assumed when costing S. 354 that each State would choose to include motorcycles in their no-fault automobile insurance plan. Most States that have already enacted no-fault automobile insurance or add-on programs, for the most part, have excluded motorcycles. If a State were to exclude motorcycles from its no-fault insurance plan, total and average cost of the no-fault insurance system would be reduced, thereby increasing the savings projected.

Perhaps the most significant understatement of savings in Milliman and Robertson's report occurs because of their assumption that no purchaser of automobile insurance would select the permissible deductibles under S. 354. Experience under present no-fault automobile insurance coverages, such as automobile collision coverage, suggests that the selection of deductibles would be the rule rather than the exception. Selection of deductibles would significantly reduce the total and average insurance costs of S. 354.

The minority staff analysis compares total insurance company payout costs, not premium costs. For example, in appendix E on page 83, their staff table shows the total increase in claims cost; that is, payments to victims—increase under S. 354 compared to total system claims costs under the present system. This comparison could mislead the reader in two respects. In the first place, the "claims costs" of the present insurance system include not only the benefits which can be used to compensate injury, but also the amount which the insurance company pays to the policyholder, who in turns pays his attorney. Under S. 354, the claims costs all inure to the benefit of the injured automobile accident victim as compensation for his losses resulting from injury. In the second place, by comparing claims costs, the administrative efficiency of the no-fault bill, as previously mentioned, is not reflected. In other words, there would be little if any increase in total premium costs, even though the claims costs show an increase. If a person is interested in ascertaining the change in total personal

injury premiums under S. 354, he should consult the chart marked as exhibit A-3 on page 70 of the Senate Judiciary Committee and read down the column noted as, "Low-Benefit Level, Tight Threshold Provision."

The relevant comparison for fair evaluation between the present system and the cost of a no-fault system such as S. 354 is the change in the average personal injury premium not total premium collected in the entire State. This figure gives the policymaker the best indication of what effect S. 354 would have on the present insurance buyers' automobile insurance premium. As is the case with any average, of course, some people will experience savings less than the average, and some people will experience savings greater than the average projected. See table B on page 23 of the Senate Judiciary Committee report for the Milliman and Robertson estimates of change in average personal injury premiums where a savings would result in all States.

If the average cost of the total automobile insurance package under the present system is compared with the projected total average cost under S. 354, each State is still projected to produce an overall savings. See exhibit A-1 on page 68 of the Senate Judiciary Committee report, and read the column labeled, "Low-Benefit Level, Tight Threshold Provision." It should be noted that exhibit A-1 on page 68—and the "Low-Benefit Level, Tight Threshold Provision"—reflects the same absolute savings as is reflected in the percentage indications in table B on page 24 of the Senate Judiciary Committee report. The only difference is that property damage, liability insurance, and collision coverage have been thrown into the comparison, thus reducing the percentage savings indicated even though the absolute savings remains constant; that is, 10 percent of 100 equals 5 percent of 200.

Because S. 354 requires all owners of motor vehicles to purchase insurance, thereby creating a compulsory insurance plan, the overall premium collected in the State may be greater in some States, because a significantly greater number of people would be purchasing insurance. While this figure is not relevant to a comparison of average costs of the present system and average costs under S. 354, the positive percentage figures have been seized upon by opponents to S. 354 to indicate that Milliman and Robertson has projected a cost increase in a particular State. See exhibit A-3 on page 70 of the Senate Judiciary Committee report, column labeled, "Low Benefit Level, Tight Threshold Provision."

The interesting thing about exhibit A-3 is that even though S. 354 creates a compulsory insurance plan and therefore requires more people to pay for insurance, even the total premium in most States is reduced.

RESPONSE TO THE ALLEGATION THAT S. 354 WOULD INCREASE COSTS IN RURAL AREAS WHILE DECREASING COSTS IN URBAN AREAS

S. 354 would not increase costs in rural States or rural areas and decrease costs in urban States or urban areas. In the first place, S. 354 specifically preserves the present system of establishing rates. Premiums under S. 354 would vary according to each State's own experience. There would be no sharing of experience between a rural State in the Midwest and an urban State in the East.

A variation of the rural State/urban State argument suggests that while S. 354 will create average insurance premium savings in every State, the average savings will occur only in urban areas while cost increases will actually result in rural areas. This argument is clearly erroneous, because it ignores the fact that rates are, and will continue to be, established on a territorial basis within the State. There will be no cross-subsidy between urban areas and rural areas. It is necessary to point out, however, that there will be in all likelihood differences in average premium savings in rural areas and average premium savings in urban areas in any given State. As a general rule, the average premium savings in a rural area will be less than the average premium savings in an urban area because:

First. There is at present more litigation in urban areas, elimination of which will produce greater savings than in the rural area where there is less litigation; and

Second. There are more single car accidents in rural areas whose costs are not picked up by the liability insurance system but whose cost would be picked up by a no-fault system.

Nevertheless, any differences in average premium costs are not the result of any subsidization by the residents of the rural community for the benefit of residents of urban communities; and average premium costs in rural areas under S. 354 will not go up above present average premium costs in rural areas.

It should also be noted that S. 354 recognizes the variance in wage and cost levels from State to State and requires minimum wage benefits to be calculated according to the relationship between each State's average weekly wage and a national weekly wage. See section 204b. The S. 354 formula produces monthly limitations on maximum work loss recovery under basis restoration benefits ranging from $684.01 in Mississippi to $1,425 in the District of Columbia. This particular provision further ensures premium savings in rural States.

RESPONSE TO THE ARGUMENT THAT S. 354 WOULD PROVIDE "WINDFALL SAVINGS" TO COMMERCIAL VEHICLE OPERATORS AT THE EXPENSE OF THE OWNERS OF PRIVATE PASSENGER VEHICLES

Under S. 354, each State would be permitted to decide whether commercial vehicle operators would receive savings which exceeded the average savings. Under S. 354, as favorably reported by the Senate Commerce Committee and the Senate Judiciary Committee, the State could set up a program of reimbursement based upon a factor such as vehicle weight, which would decrease the saving available to commercial vehicles and bring them more into line with the average premium saving.

In addition, an amendment to S. 354 is being offered which would permit the States to reduce the saving for heavier vehicles by permitting a State to provide for inter-insurer subrogation on the basis of fault for persons owning vehicles weighing more than 8,000 pounds when the loss caused by such vehicles exceeds $5,000.

The decision as to whether or not commercial vehicles in fact would sustain a windfall would be left to the State, and the State would have the option of rectifying any inequity it believes would occur.

Mr. President, I shall have more to say on this subject when we have further discussion but I thought today following the report of the Senator from New Hampshire I should call these matters to the attention of the Senate.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I shall state the program for tomorrow.

On tomorrow, the Senate will convene at 12 o'clock noon.

Immediately after the two leaders or their designees have been recognized under the standing order, Mr. HARRY F. BYRD, JR., and Mr. BAYH will be recognized, each for not to exceed 15 minutes and in that order.

There will then be a period for the transaction of routine morning business, not to extend beyond 12:45 p.m., with statements therein limited to 5 minutes each.

At 12:45 p.m., the Senate will go into executive session to consider certain nominations—the nominations of Brig. Gen. Charles A. Gabriel and Maj. Gen. Alton D. Slay, among others. Mr. PROXMIRE will be recognized for 30 minutes, after which there will be 1 hour of debate on the two nominations I have mentioned specifically, the hour to be equally divided between Mr. HUGHES and Mr. STENNIS.

At about 2:15 p.m., therefore, or at the conclusion of the time allotted, there will be two yea-and-nay votes, back to back, on those two nominations, the yeas and nays having already been ordered. Senators are reminded, therefore, that at about 2:15 p.m., give or take a little, there will be two yea-and-nay votes, back to back, on the nominations of Brig. Gen. Charles A. Gabriel and Maj. Gen. Alton D. Slay.

Upon the disposition of the nominations, the Senate will return to legislative business, with the resumption of consideration of the unfinished business, the no-fault insurance bill, S. 354.

The pending question at that time will be on amendment No. 1204, by Mr. ABOUREZK. There is no time limitation on the amendment.

Upon the disposition of that amendment, the Senate will resume consideration of the pending Magnuson amendment, and there is no time limitation on that amendment.

Yea-and-nay votes on amendments to the bill are expected throughout the afternoon of tomorrow.

ADJOURNMENT

Mr. MOSS. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:26 p.m. the Senate adjourned until Wednesday, April 24, 1974, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate April 23, 1974:

DEPARTMENT OF STATE

Rodger P. Davies, of California, a Foreign Service Officer of the Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cyprus.

DEPARTMENT OF THE TREASURY

Mary T. Brooks, of Idaho, to be Director of the Mint for a term of 5 years. (Reappointment.)

COASTAL PLAINS REGIONAL COMMISSION

Russell Jackson Hawke, Jr., of North Carolina, to be Federal Cochairman of the Coastal Plains Regional Commission, vice G. Fred Steele, Jr.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 23, 1974:

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

The following-named persons to be members of the Board of Directors of the National Corporation for Housing Partnerships for the terms indicated:

For the remainder of the term expiring October 27, 1974:

Henry F. Trione, of California.

For the term expiring October 27, 1975:

Charles J. Urstadt, of New York.

For the term expiring October 27, 1976:

Raymond Alexander Harris, of South Carolina.

FEDERAL COMMUNICATIONS COMMISSION

James H. Quello, of Michigan, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1973.

OFFICE OF TELECOMMUNICATIONS POLICY

John Eger, of Virginia, to be Deputy Director of the Office of Telecommunications Policy.

(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.)

IN THE AIR FORCE

Air Force nominations beginning John T. Abell, to be colonel, and ending Vincent T. Penikas, to be colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 7, 1974.

Air Force nominations beginning Ralph E. Andrews, to be captain, and ending Bruce D. Pauls, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 11, 1974.

IN THE ARMY

Army nominations beginning Lawrence A. L. Sheftel, to be lieutenant colonel, and ending Anthony H. Young, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 19, 1974.

Army nominations beginning Edward Abercrombie, to be lieutenant colonel, and ending George A. Lynn, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 19, 1974.

Army nominations beginning Jerry D. Rose, to be captain, and ending Andrew T. Zygmuntowicz, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 26, 1974.

IN THE NAVY

Navy nominations beginning William Benjamin Abbott II, to be captain, and ending Charlotte Romaine Stone, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 4, 1974.

Navy nominations beginning John M. Ambrose, to be a permanent lieutenant (junior grade) and a temporary lieutenant, and ending Joseph P. Commette to be a permanent lieutenant and a temporary lieutenant commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 19, 1974.

Navy nominations beginning Walter P. Ablowich, to be lieutenant commander, and ending Raleigh Louis Walker, Jr., to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 21, 1974.

Navy nominations beginning Adrian J. Adams, to be lieutenant (junior grade), and ending George L. Russell, to be ensign, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 21, 1974.

Navy nominations beginning Walter P. Adams, Jr., to be captain, and ending Nellie J. Hjaltalin, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 26, 1974.

Navy nominations beginning Robert Charles Adams, to be commander, and ending Dorothy Ann Yelle, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 26, 1974.

IN THE MARINE CORPS

The nomination of Gerald P. Carr, U.S. Marine Corps, for permanent promotion to the grade of colonel, which nomination was received by the Senate and appeared in the CONGRESSIONAL RECORD on March 11, 1974.

HOUSE OF REPRESENTATIVES—*Tuesday, April 23, 1974*

The House met at 12 o'clock noon.

Dr. Greg Dixon, Baptist Temple, Indianapolis, Ind., offered the following prayer:

Our Father, we give thanks today for Thy great blessings upon us all. We are grateful for Thy loving kindness and that Thou hast not dealt with us after our sins nor rewarded us according to our iniquities.

We pray today for our leaders and our Nation. Forgive our sins and transgressions, collectively and individually. We pray for national repentance. We especially pray for each of these ladies and gentlemen in this House which represents the people of our country. They have given themselves sacrificially for the general welfare of all of us and we are grateful and now, our Father, may we not forget that righteousness exalteth a nation and sin is a reproach to any people and blessed is that nation whose God is the Lord. These things we pray in the name of our blessed Lord and Saviour, Jesus Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

CONGRESSMAN HUDNUT WELCOMES GREG DIXON

(Mr. HUDNUT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUDNUT. Mr. Speaker, I am very proud to say that the opening prayer for today's session was delivered by my very good friend, and former colleague in the ministry, Rev. Greg Dixon, pastor of the Indianapolis Baptist Temple, Indianapolis' largest Sunday school, and the 11th largest Protestant church in the Nation. It is also listed in Dr. Elmer Town's recent book, "America's 10 Fastest Growing Churches." Reverend Dixon's prayer was sincere, meaningful, and appropriate and I am sure that I speak for all of us in welcoming him and expressing appreciation to him for being with us today.

In addition to his pastoral duties, Rev. Greg Dixon is well known in Indianapolis for his involvement in community activities. He has served as president for the Indiana Baptist Bible Fellowship and the Fundamental Baptist Association of Greater Indianapolis.

For more than 13 years, Dr. Dixon has conducted a weekly television show in Indianapolis, and has a daily radio broadcast.

Dr. Dixon has served as a director of the Baptist Bible Fellowship International, as a trustee for the Baptist Bible College, and founded the Indianapolis Baptist High School.

Besides traveling extensively throughout the United States, Reverend Dixon has visited 11 foreign countries, including the Holy Land.

It is a great pleasure to have him with us today.

PERMISSION FOR MR. J. ROBERT TRAXLER TO TAKE THE OATH OF OFFICE

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the gentleman from Michigan, Mr. J. ROBERT TRAXLER, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CALL OF THE HOUSE

Mr. RIEGLE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.